

Sec. 3. **EFFECTIVE DATE; REPEALER.**

Pursuant to Minnesota Statutes, section 645.023, subdivision 1, clause (a), sections 1 and 2 take effect without local approval the day following final enactment. Sections 1 and 2 are repealed December 31, 1992.

Approved May 26, 1987

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**CHAPTER 229—H.F.No. 1197**

*An act relating to statutes; revising the text of certain laws to remove redundant and obsolete language, to simplify grammar and syntax, and to improve the style of language without causing changes in the meaning of the laws; amending Minnesota Statutes 1986, chapters 84A; 105; 112; 274; 276; 352; 352B; 365; 430; and 447.*

**REVISOR'S BILL**

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

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**ARTICLE 1**

Section 1. Minnesota Statutes 1986, chapter 84A, is amended to read:

**RED LAKE GAME PRESERVE****84A.01 RED LAKE GAME PRESERVE.**

There is created a state wildlife preserve and hunting ground to be known as the Red Lake game preserve. It is created for the purpose of vesting and revesting the state with title to lands in the area hereinafter described which that are suitable primarily for state use and development for the purpose of preserving, protecting, propagating, and breeding wildlife of all suitable kinds, including all species of game and fish and fur-bearing animals and birds of rare and useful species, and for the development of forests and prevention of forest fires, and the preservation and development of rare and distinctive plant species of flora native in such the area; there is hereby located, established, and created a state wild life preserve and hunting ground comprising. It includes all lands and waters in Lake of the Woods county lying south of Rainy river, and south of Lake of the Woods, and all full and fractional townships in Beltrami county lying north of the north line of township 151, excluding all of the lands and waters lying within Red Lake Indian reservation; and including. It also all that includes the part of Koochiching county lying west and northwesterly of the following described line:

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Beginning at a point where the range line between ranges 26 and 27 west of the fifth principal meridian intersects the southerly bank of Rainy River; thence south on this range line to the point formed by the intersection of this range line with the easterly boundary line of the original Red Lake Indian reservation; thence southwesterly along the easterly boundary line of the original Red Lake Indian reservation to a point formed by the intersection of ~~such~~ the boundary line with the range line between ranges 29 and 30 west of the fifth principal meridian; to be known as the Red Lake game preserve; sometimes called "preserve and hunting ground."

#### 84A.02 MANAGEMENT DEPARTMENT TO MANAGE PRESERVE.

~~The department of natural resources shall manage and control the Red Lake game preserve shall be under the management and control of the department, which shall have, and it is hereby given, full power and authority to make, establish, promulgate, and enforce all necessary. The department may adopt and enforce rules; not inconsistent with the laws of the state, for the care, preservation, protection, breeding, propagation, and disposition of any and all species of wildlife therein and in the preserve. The department may adopt and enforce rules for the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, and other uses of this area, not inconsistent~~ consistent with the terms of sections 84A.01 to 84A.11 ~~or other laws of the state now or hereafter applicable thereto. The department shall have power and authority, may by means of rules, to declare rule, set the terms and, conditions of, and charges for~~ these licenses and permits ~~and the charges to be made therefor.~~

~~These~~ The rules may specify and control the terms under ~~and by~~ which wildlife may be taken, captured, or killed ~~therein in the preserve, and under and by~~ which fur-bearing animals, or animals and fish otherwise having commercial value, may be taken, captured, trapped, killed, sold, and removed ~~therefrom from it.~~ These rules may also provide for (1) the afforestation and reforestation of state lands ~~now or hereafter owned by the state in this game the preserve and hunting grounds, and for (2) the sale of merchantable timber from these lands when and where, in the opinion of the department, the same it can be sold and removed without damage or injury to the further use and development of the land for a habitat of wildlife and game in this game the preserve and hunting ground, and for (3) the purposes for which this the preserve and hunting ground is established by sections 84A.01 to 84A.11.~~

The department may provide for the policing of ~~this the~~ preserve and ~~hunting ground in such manner as may be needful necessary for the its~~ proper development and use of the preserve and hunting ground for the purposes specified; ~~and all~~ Supervisors, guards, custodians, and caretakers assigned to duty in ~~this the~~ preserve and hunting ground shall have ~~and possess~~ the authority ~~and powers of peace officers while in their employment.~~

The department shall also ~~make and enforce such~~ adopt and enforce rules;

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not inconsistent with the laws of the state, concerning the burning of grass, timber slashings, and other ~~inflammable~~ flammable matter, and the clearing, development, and use of lands in ~~this the~~ preserve and hunting ground as ~~may~~ be necessary and advisable to prevent ~~destructive~~ forest fires and grass fires ~~which that~~ would injure the use and development of this area for the wildlife preservation and propagation of wild life therein; and ~~for the proper protection of the to~~ protect its forest and wooded areas thereof.

All Lands within the boundaries of ~~this the~~ preserve and hunting ground shall ~~be are~~ be subject to ~~such the~~ such rules, whether owned by the state or privately, consistent with the rights of the private owners and with the laws of ~~this applic-  
able state now or hereafter applicable thereto law.~~ the applicable state now or hereafter applicable thereto law. By ~~such The~~ such rules there may ~~be established~~ establish areas and zones within ~~this the~~ preserve and hunting ground where hunting, fishing, trapping, or camping ~~may be is~~ is prohibited or specially regulated, ~~for the purpose of protection to~~ protect and propagation of propagate particular wildlife ~~therein in the~~ in the preserve.

All Rules adopted and promulgated under the provisions of sections 84A.01 to 84A.11 shall ~~must~~ be published in the manner now as required by law under the provisions of section 97A.051; and shall be, in addition thereto, posted on the boundaries of ~~this the~~ preserve and hunting ground.

#### 84A.03 RED LAKE GAME PRESERVE FUND.

The Red Lake game preserve fund is created. The following funds must be paid into the state treasury and credited to the fund and are annually appropriated for the purposes of sections 84A.01 to 84A.11:

(1) the proceeds of all certificates of indebtedness issued under the provisions of sections 84A.01 to 84A.11; all moneys;

(2) money received from redemption, as therein provided in those sections, all moneys;

(3) money received as gifts to the state for the purpose of care, preservation, improvement, and maintenance of this the preserve and hunting ground; and all;

(4) income which may be received from the operation, development, management, and use of this the preserve and hunting ground, including such fees as may be received for such licenses and permits; all;

(5) income which may be received from the sale of birds, animals, fish, and flora therefrom plants from the preserve, and from the sale of lands and timber thereon owned by the state within such the area, other than university, school, and swamp lands, state forest lands set apart pursuant to under the Minnesota Constitution of the state of Minnesota, article XI, section 11, and state lands acquired under the system of rural credit; and all

(6) state money of the state which may hereafter be transferred thereto to the preserve under any state law of the state; shall be paid into the state treasury

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and credited to the Red Lake game preserve fund, which is hereby created, and the same are hereby annually appropriated for the purposes of sections 84A.01 to 84A.11.

#### 84A.04 COUNTY AUDITOR TO MAKE LIST OF LANDS.

Subdivision 1. [1929 REPORT.] The auditor of each county in which containing a portion of this the preserve and hunting ground is situated shall certify to the commissioner of natural resources a list of ~~all~~ the lands within the boundaries of the preserve and hunting ground, except lands lying within the boundaries of any an incorporated city, which that have been bid in for the state at the delinquent tax sale held in the year 1928 for the nonpayment of taxes or special drainage assessments and not redeemed or assigned to an actual purchaser; which. The certificate shall must contain the following information:

- (1) the legal description of each parcel of such lands;
- (2) the amount of principal and interest of delinquent drainage assessments, if any, or assessment installments thereof, for all years prior to before the date of such the report, against each such parcel of land; and
- (3) the amount of drainage assessments thereof assessed against each such parcel of land which that have been or are to be extended upon on the county tax rolls of such county for collection with the taxes for the year 1927 and subsequent later years.

Subd. 2. ANNUAL REPORTS. On or before June ~~fifteenth~~, 15 of each year thereafter, such after the report, the county auditor shall certify to the commissioner of natural resources a supplemental report giving the information contained in the original report covering such the lands within this the preserve and hunting ground bid in for the state at the annual tax sale of that year and not included in the previous report.

Subd. 3. REPORTS OF LAND REDEMPTIONS. When redemption is made of any parcel of such land within the preserve and hunting ground which that has been bid in for the state at any tax sale for taxes ~~heretofore~~ levied before April 19, 1929, or when the tax liens on such the land are assigned to an actual purchaser, the county auditor shall report the same forthwith the fact to the commissioner of natural resources, and the county treasurer shall transmit forthwith send the proceeds of such redemption to the state treasurer.

Subd. 4. DRAINAGE DITCH BONDS; REPORTS. (a) After each distribution has been made of the tax collections on the June and November tax settlements, such the county auditor shall certify to the commissioner of natural resources the following information relating to bonds issued to finance or refinance public drainage ditches lying wholly or partly within this the preserve and hunting ground and the collection of assessments levied on account of such the ditches:

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(1) the amount of principal and interest to become due on ~~such~~ the bonds ~~prior to~~ before the next ~~ensuing~~ tax settlement and distribution;

(2) the amount of money collected from ~~such~~ the drainage assessments and credited to the funds of these ditches; and

(3) the amount of the deficit in the ditch fund of the county chargeable to ~~such~~ the ditches.

(b) ~~Upon the approval of~~ On approving this certificate ~~by~~, the commissioner of natural resources; ~~the commissioner~~ shall draw a warrant or warrants on the state treasurer, payable out of the Red Lake game preserve fund, for the amount of the deficit in favor of ~~such~~ the county.

(c) As to ~~all~~ public drainage ditches ~~which lie wholly within this~~ the preserve and ~~hunting ground~~, the ~~maximum~~ amount of money ~~which shall be paid to or for the benefit of~~ such the county; ~~in the manner above provided; shall under paragraph (b) must~~ never exceed the principal and interest of the bonds issued to finance and refinance ~~such~~ the ditches outstanding at the time of the passage and approval of sections 84A.01 to 84A.11 after April 19, 1929, less money on hand in the county ditch fund to the credit of ~~such~~ the ditches; and ~~such~~. The liability shall be reduced, from time to time, by the amount of ~~any~~ and all payments of assessments ~~hereafter extended after April 19, 1929~~, made by the owners of lands ~~heretofore assessed before that date~~ for benefits on account of ~~such~~ the ditches.

(d) As to ~~all~~ public drainage ditches ~~which lie partly within and partly without the boundaries of this~~ outside the preserve and ~~hunting ground~~, the ~~maximum~~ amount ~~which shall be paid to or for the benefit of~~ such the county shall ~~must~~ never exceed ~~the a certain~~ percentage of bonds issued to finance and refinance ~~such~~ the ditches so outstanding, less money on hand in the county ditch fund to the credit of ~~such~~ the ditches at the time of the passage and approval of sections 84A.01 to 84A.11, ~~which bears after April 19, 1929~~. This percentage must bear the same proportion to the whole amount of ~~such~~ the bonds as the original benefits assessed against lands within the ~~game~~ preserve bear to the original total benefits assessed to the entire system of ~~such~~ ditches; and ~~such~~. The liability shall be reduced, from time to time, by the payments of all assessments ~~hereafter extended after April 19, 1929~~, made by the owners of lands in ~~this~~ the preserve and ~~hunting ground~~, of assessments for benefits ~~heretofore assessed before April 19, 1929~~, on account of ~~any~~ such the ditch.

(e) The commissioner of natural resources ~~shall have authority to~~ may provide and prescribe the forms for ~~any~~ reports required by sections 84A.01 to 84A.11; and ~~to~~ require any ~~further~~ and additional information from ~~any~~ county officials of these ~~counties~~ which that the commissioner of finance ~~deems~~ finds necessary for the proper administration of sections 84A.01 to 84A.11.

84A.07 ~~TITLE TO LAND IN PRESERVE LANDS TO BE HELD BY STATE.~~

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The title to all parcels of land ~~lying~~ within this the preserve and hunting ground, except lands ~~lying~~ within the boundaries of any incorporated city, ~~which shall be that are~~ acquired by the state under the provisions of section 280.13 Laws 1927, chapter 119, as amended, ~~shall be is~~ held by the state, free from the trust in favor of the taxing districts specified therein, ~~and shall in that chapter.~~ Title must be held and used, or disposed of, in accordance with the provisions of Laws 1929, chapter 258 sections 84A.01 to 84A.11.

#### 84A.08 PRESERVE LANDS CLASSIFIED.

Upon receipt by the commissioner of finance of On receiving the reports of county auditor specified in section 84A.04, the commissioner of finance shall certify a copy ~~thereof~~ of the report to the department; ~~which.~~ The department shall classify all ~~such~~ the lands as to their suitability for agriculture or for afforestation or reforestation, or for ownership and use by the state for preserving, propagating, breeding, and hunting of wildlife of the kinds specified in section 84A.01; ~~and.~~ After the state acquires title to any ~~such~~ the lands ~~has been~~ acquired by the state, in the manner provided, such lands they may be reclassified; from time to time. All such Lands which shall ~~that~~ become the absolute property of the state under the provisions of sections 84A.01 to 84A.11; ~~which~~ and have been classified as suitable for agriculture, and timber; from any lands so acquired, shall be subject to sale may be sold by the state; as provided by law.

#### 84A.09 GIFTS RECEIVED.

The department is hereby authorized and empowered to may receive; for and in behalf of the state; and to make suitable acknowledgments of; acknowledge any gifts, bequests, devises, or grants of land or interests in lands in ~~this the~~ preserve and hunting ground, or of money or personal property of any kind, ~~which that it may deem~~ considers suitable for use in connection with the operation, control, development, or use of the preserve and hunting ground.

#### 84A.10 EMINENT DOMAIN.

The department has the right of eminent domain in chapter 117. The department is hereby authorized and empowered to may acquire, by exercise of the right of eminent domain; ~~which right is hereby given it;~~ to be exercised in the manner provided in chapter 117; or by purchase, any lands or interests in lands in ~~this the~~ preserve and hunting ground ~~which that~~ the department shall deem considers necessary for state ownership, use, or development for the purposes of sections 84A.01 to 84A.11. No ~~moneys~~ money shall be used for the purposes specified in this section to acquire the lands or interests until ~~and~~ unless the department shall have ~~determined~~ determines that such ~~moneys~~ the money will not be required to meet the requisitions of the counties authorized under section 84A.04, or for payment of certificates of indebtedness and their interest ~~thereon~~.

#### [84A.101] RULE VIOLATION; MISDEMEANOR.

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Any person who, within the limits of the preserve, willfully violates a rule of the department, is guilty of a misdemeanor.

#### 84A.11 WHEN BONDS PAID IN PART BY COUNTIES.

~~Any A county wherein~~ containing a portion of ~~this the~~ preserve and ~~hunting ground is located~~ may voluntarily assume, in the manner specified in this section, the obligation to pay ~~that a~~ portion of the principal and interest of the bonds, heretofore issued before April 19, 1929, and ~~which may remain remaining~~ unpaid at maturity, of any school district or town ~~situated~~ in the county and wholly or partly ~~lying~~ within the preserve and ~~hunting ground, which.~~ The portion bears must bear the same proportion to the whole of ~~such the~~ unpaid principal and interest as the 1928 assessed valuation of lands then acquired by the state ~~pursuant to under~~ sections 84A.01 to 84A.11 in ~~such that~~ school district or town bears to the total 1928 assessed valuation of ~~such the~~ school district or town.

This assumption ~~shall~~ must be evidenced by a resolution of the county board ~~of the county.~~ A copy of ~~which shall the~~ resolution must be certified to the commissioner of finance within one year after the passage of sections 84A.01 to 84A.11; ~~and thereafter.~~

After that time, if any of these bonds ~~shall~~ remain unpaid at maturity, the county board shall, upon demand of the governing body of the school district or town or of the holder of any ~~such bonds a~~ bondholder, provide for the payment of the portion ~~thereof so assumed; and.~~ The county board shall levy general taxes on all the taxable property of the county ~~therefor for that purpose~~, or shall issue its bonds to raise ~~such the~~ sum as ~~may be~~ needed conforming to the ~~provisions of law~~ respecting the issuance of county refunding bonds. The proceeds of these taxes or bonds ~~shall must~~ be paid ~~over~~ by the county treasurer to the treasurers of the respective school districts or towns.

In the event any ~~such~~ If a county ~~shall fail or neglect so fails~~ to adopt and certify this resolution, the commissioner of finance shall withhold from the payments to be made to the county, under ~~the provisions of~~ section 84A.04, a sum equal to that portion of the principal and interest of these outstanding bonds ~~which that~~ bears the same proportion to the whole ~~thereof principal and interest~~ as the 1928 assessed valuation of lands acquired by the state within the preserve and ~~hunting ground~~ bears to the total 1928 assessed valuation of the school district or town. ~~Moneys so~~ The money withheld ~~from the county shall~~ must be set aside in the state treasury and not paid to the county until the full principal and interest of these school district and town bonds ~~shall have been is~~ paid.

In the event that If any ~~such~~ bonds remain unpaid at maturity, upon the demand of the governing body of the school district or town, or ~~the holder of any such bonds a~~ bondholder, the commissioner of finance shall issue to the treasurer of the school district or town a warrant on the state treasurer for that portion of the past due principal and interest computed as in the case of the county liability authorized to be voluntarily assumed. ~~All~~ Money received by

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any a school district or town pursuant to under this section shall must be applied to the payment of these past due bonds and interest.

Any person who, within the limits of this preserve and hunting ground, shall willfully violate or fail to comply with any rule of the department of natural resources adopted and promulgated in accordance with the provisions of sections ~~84A.01 to 84A.11~~ shall be deemed guilty of a misdemeanor.

#### REFORESTATION AREAS AND PROJECTS, 1931

##### 84A.20 REFORESTATION AREAS TO BE SET OFF COUNTY ACTION TO SET OFF AREAS.

Subdivision 1. PURPOSES. The powers in this section are granted for the purpose of:

(1) vesting and revesting the state with title to lands suitable primarily for the development of forests and the prevention of forest fires, and for experimenting in and practically advancing afforestation and reforestation, ~~or for the purpose of;~~

(2) impounding, controlling, and regulating the waters of meandered lakes and the flow of natural streams in the state; ~~or for either or any of such purposes; or for~~

(3) other public state purposes;

Subd. 2. COUNTY PROPOSAL TO STATE. Under certain conditions, the board of county commissioners of any county within which such lands are located and in which on January 1, 1931, the taxes on more than 35 percent of the taxable land are delinquent and of which on January 1, 1931, the bonded ditch indebtedness, including accrued interest, equals or exceeds nine percent of the assessed valuation of the county, exclusive of money and credits, may by resolution duly adopted propose to the state of Minnesota that one or more areas in the county containing this land be taken over by the state for afforestation, reforestation, flood control projects, or other public state purposes. The projects are to be managed, controlled, and used for the development of forests and the prevention of forest fires, and for the purpose of experimenting in and practically advancing afforestation, reforestation, or for the purpose of impounding, controlling, and regulating the waters of meandered lakes and the flow of natural streams, or for other public state purposes; the purposes in subdivision 1 on lands to be acquired by the state within such the projects, as hereinafter set forth in sections 84A.20 to 84A.30. The county board may propose this if (1) the county contains lands suitable for the purposes in subdivision 1, (2) on January 1, 1931, the taxes on more than 35 percent of the taxable land in the county are delinquent, (3) on January 1, 1931, the county's bonded ditch indebtedness, including accrued interest, equals or exceeds nine percent of the assessed valuation of the county, exclusive of money and credits.

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~~Each such~~ The area shall taken over must include lands ~~which that~~ have been assessed for all or part of the cost of the establishment and construction of public drainage ditches under ~~the laws of this state law~~, and on which ~~such the~~ assessments or installments thereof are ~~overdue, delinquent, and unpaid~~. A ~~duly~~ certified copy of ~~each such resolution~~ of the county board ~~shall board's resolution~~ must be ~~submitted to and~~ filed with the department and considered and acted upon by the department; ~~if approved by the department, it shall must~~ then be submitted to, considered, and acted upon by the executive council ~~and~~. If approved by the executive council, the proposition ~~shall must~~ be formally accepted by the governor. Acceptance ~~shall must~~ be communicated in writing to and filed with the county auditor of the county.

Subd. 3. DEFINITIONS. State lands ~~which that~~ have been sold as provided by law and for which certificates of sale have been issued ~~shall be considered~~ are taxable lands within the meaning of this section ~~and~~. If the taxes against ~~such the~~ lands or the interest of the purchaser ~~therein in them~~ are delinquent, ~~shall be considered lands on which the taxes they are delinquent within the meaning of this section subdivision 2~~ until such time as the title of the certificate holder ~~shall have~~ has been terminated by the commissioner in accordance with the provisions of section 92.16.

#### 84A.21 DEPARTMENT TO MANAGE AREAS PROJECTS.

The department shall manage and control each of ~~such projects so project~~ approved and accepted ~~shall be under the management and control of the department, which shall have and is hereby given full power and authority to make, establish, promulgate, under section 84A.20. The department may adopt and enforce all necessary rules not inconsistent with the laws of the state for the care, preservation, protection, and development of forests and for experimenting in and practically advancing afforestation and reforestation therein, and impounding, controlling, and regulating the waters of meandered lakes and the flow of natural streams, or for other public state purposes, and purposes in section 84A.20, subdivision 1, for the prevention of forest fires therein in the projects, and for the sale of merchantable timber from lands so acquired by the state therein when and where, in the opinion of the department, the same timber may be sold and removed without damage or injury to the purposes of such project.~~

These rules may relate to the care, preservation, protection, breeding, propagation, and disposition of any ~~and all~~ species of wildlife ~~therein in the project~~ and the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, and other uses of the areas ~~not inconsistent with the terms of any laws of the state now or hereafter applicable thereto~~ consistent with applicable state law.

The department may provide for the policing of each project ~~in such manner as may be needful needed~~ for the proper development, use, and protection thereof, of the project and of its purposes, and all. Supervisors, guards, custodians, and caretakers assigned to duty in any project ~~shall have and possess~~

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the ~~authority and powers of peace officers while in its employ~~ employed by the department.

All Lands within the boundaries of any a project ~~shall be~~ are subject to these rules, whether owned by the state or privately, consistent with the rights of the private owners or with the laws of this state now or hereafter applicable thereto state law. All these ~~The~~ rules ~~shall~~ must be published once in one qualified newspaper in each county affected and ~~shall~~ take effect after such publication and ~~shall be, in addition thereto,~~ They must also be posted on the boundaries of each project affected.

#### 84A.22 DISPOSAL OF PROCEEDS.

The following funds must be paid to the state treasury, credited to the project to which they pertain and are annually appropriated to its purposes:

(1) the proceeds of all certificates of indebtedness issued under the ~~provisions of sections 84A.20 to 84A.30; and~~

(2) money received from redemption, as provided in sections 84A.22 to 84A.30; ~~and~~

(3) ~~all~~ money received as gifts to the state for the purposes of any ~~such~~ project; ~~and~~ ~~all~~;

(4) income ~~which may be received~~ from the operation, development, management, and use of these projects, including fees ~~received~~ from licenses and permits, ~~and~~;

(5) income ~~which may be received~~ from the sale of all birds, animals, fish, and flora ~~therefrom~~ plants from the projects and from the sale of lands and timber ~~thereon~~ owned by the state within ~~such~~ the area, other than university, school, and swamp lands, state forest lands set apart pursuant to under the Minnesota Constitution of the state of Minnesota, article XI, section 11, and state lands acquired under the system of rural credit; and ~~all~~

(6) state money of the state which may hereafter be transferred thereto to the project under any state law of this state shall be paid into the state treasury and credited to the project to which the same pertain and the same are hereby annually appropriated for the purposes thereof; provided, that,

Under the provisions of sections 84A.20 to 84A.30, the aggregate or total of all certificates of indebtedness issued ~~shall~~ must not exceed \$2,250,000.

#### 84A.23 COUNTY AUDITOR TO MAKE LIST OF CERTIFY TAX-DELINQUENT LANDS.

Subdivision 1. FIRST REPORT. As soon as practicable after the approval and acceptance of any ~~such~~ a project, the auditor of each county ~~in which~~ where the ~~same~~ project is situated shall certify to the commissioner of finance a list of

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all the lands within the boundaries of the project, except lands lying within the boundaries of any a city, which that have been bid in for the state at the delinquent tax sale held in the year 1928 for the nonpayment of taxes or special drainage assessments and not redeemed or assigned to an actual purchaser; which. The certificate shall must contain the following information:

- (1) the legal description of each parcel of ~~such~~ the lands;
- (2) the amount of the principal and interest of delinquent drainage assessments, if any, or installments ~~thereof~~ of assessments for all years ~~prior to~~ before the date of ~~such~~ the report against each ~~such~~ parcel of land; and
- (3) the amount of drainage assessments ~~thereof~~ assessed against each ~~such~~ parcel of land, ~~which that~~ have been or are to be extended ~~upon~~ on the county tax rolls of ~~such~~ county for collection with the taxes for the year 1927 and subsequent later years.

Subd. 2. SUPPLEMENTAL REPORTS. On or before June 15 of each year thereafter ~~such~~ after the report, the county auditor shall certify to the commissioner of finance a supplemental report giving the information contained in the original report covering ~~such~~ the lands within each ~~such~~ project bid in for the state at the annual tax sale of that year and not included in the previous reports.

Subd. 3. REDEMPTION OR LIEN ASSIGNMENT; PROCEEDS. When redemption is made of any parcel of ~~such~~ the land within any ~~such~~ a project ~~which that~~ has been bid in for the state at any a tax sale for taxes ~~heretofore~~ levied before April 25, 1931, or when tax liens on these lands are assigned to an actual purchaser, the county auditor shall report the ~~same~~ forthwith fact to the commissioner of finance, and the county treasurer shall ~~transmit forthwith~~ send the proceeds of the redemption or assignment to the state treasurer.

Forthwith upon the approval and acceptance of any such Subd. 4. DRAINAGE DITCH BONDS; REPORTS. (a) Immediately after a project is approved and accepted and thereafter, then after each distribution ~~has been made~~ of the tax collections on the June and November tax settlements, ~~such~~ the county auditor shall certify to the commissioner of finance the following information relating to bonds issued to finance or refinance public drainage ditches ~~lying~~, wholly or partly, within ~~such~~ the projects, and the collection of assessments levied on account of ~~such~~ the ditches:

- (1) the amount of principal and interest to become due on ~~such~~ the bonds ~~prior to~~ before the next ~~ensuing~~ tax settlement and distribution;
- (2) the amount of ~~moneys~~ money collected from ~~such~~ the drainage assessments and credited to the funds of the ditches; and
- (3) the amount of the deficit in the ditch fund of the county chargeable to ~~such~~ the ditches.

Upon the approval of (b) On approving the certificate ~~by~~, the commissioner

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of finance; the commissioner shall draw a warrant or warrants on the state treasurer, payable out of the fund pertaining to ~~such~~ the project, for the amount of the deficit in favor of ~~such~~ the county.

(c) As to all public drainage ditches which lie wholly within any ~~such~~ a project, the ~~maximum~~ amount of money which shall be paid to or for the benefit of the county in the manner above provided shall under paragraph (b) must never exceed the principal and interest of the bonds issued to finance or refinance ~~such~~ the ditches outstanding at the time of the passage and approval of sections 84A.20 to 84A.30, less ~~moneys~~ money on hand in the county ditch fund to the credit of ~~such~~ the ditches; and ~~such~~ The liabilities shall must be reduced from time to time by the amount of any and all payments of assessments ~~hereafter extended after April 25, 1931,~~ made by the owners of lands ~~heretofore assessed before that date~~ for benefits on account of ~~such~~ the ditches.

(d) As to all public drainage ditches which lie partly within and partly without the boundaries of any ~~such~~ outside a project, the ~~maximum~~ amount which shall be paid from the fund pertaining to ~~such~~ the project to or for the benefit of ~~such~~ the county shall must never exceed ~~the a certain~~ percentage of bonds issued to finance and refinance ~~such~~ the ditches so outstanding, less ~~moneys~~ money on hand in the county ditch fund to the credit of ~~such~~ the ditches at the time of the passage and approval of sections 84A.20 to 84A.30, ~~which bears on April 25, 1931.~~ The percentage must bear the same proportion to the whole amount of these bonds as the original benefits assessed against lands within the project bear to the original total benefits assessed to the entire system of ~~such~~ the ditches; and This liability shall be reduced from time to time by the payments of all assessments ~~hereafter extended after April 25, 1931,~~ made by the owners of lands within ~~such~~ the project of assessments for benefits ~~heretofore assessed before that date~~ on account of any ~~such~~ a ditch.

(e) The commissioner of finance shall have authority to may provide and prescribe the forms for any reports required by sections 84A.20 to 84A.30; and to require any further and additional information from any county officials of any ~~such~~ county which that the commissioner of finance deems considers necessary for the proper administration of sections 84A.20 to 84A.30.

#### 84A.26 PROJECT LANDS TO BE HELD BY STATE.

The title to all parcels of land ~~lying~~ within any ~~such~~ a project, except lands ~~lying~~ within the boundaries of any a city, which shall be that are acquired by the state under the provisions of section 280.13 shall Laws 1927, chapter 119, as amended, must be held by the state free from the trust in favor of the taxing districts specified in ~~these sections and that chapter.~~ Title must be held and used or disposed of in accordance with the provisions of sections 84A.20 to 84A.30.

#### 84A.27 REPORTS, CERTIFICATION PROJECT LANDS CLASSIFIED.

Upon receipt of the commissioner of finance of On receiving the reports of

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the county auditor specified in section 84A.23, the commissioner of finance shall certify a copy ~~thereof~~ of the report to the department; ~~which.~~ The department shall classify ~~all such~~ the lands as to their suitability for agriculture or for afforestation, reforestation, or for the purpose of impounding, controlling, and regulating the waters of meandered lakes and the flow of natural streams, or for other ~~public~~ state purposes; ~~and.~~ After the state acquires title to ~~any such~~ the lands has been acquired by the state in the manner as provided in sections 84A.20 to 84A.30 ~~such~~ lands, they may be reclassified ~~from time to time.~~ All ~~such~~ Lands ~~which that~~ become the absolute property of the state under the ~~provisions of~~ sections 84A.20 to 84A.30 ~~which and~~ have been classified as suitable for agriculture, and timber from any lands so acquired, ~~shall be subject to sale may be sold~~ by the state as provided by law.

#### 84A.28 DEPARTMENT TO ACCEPT GIFTS.

The department is hereby authorized and empowered to may receive for ~~and in behalf~~ of the state; and to make suitable acknowledgments of; acknowledge any gift, bequest, devise, or grant of land or interests in lands in ~~any such~~ a project, or of money or personal property of any kind, ~~which that~~ it may deem considers suitable for use in connection with the operation, control, development, or use of ~~any or all of such~~ projects.

#### 84A.29 ~~DEPARTMENT TO HAVE RIGHT OF EMINENT DOMAIN.~~

The department has the right of eminent domain in chapter 117. The department is hereby authorized and empowered to may acquire by exercise of the right of eminent domain; ~~which right is hereby given it, to be exercised in the manner provided in chapter 117;~~ or by purchase, ~~any~~ lands or interests in lands in ~~any such~~ project; ~~which that~~ the department ~~shall deem~~ considers necessary for state ownership, use, or development for the purposes of sections 84A.20 to 84A.30. No ~~moneys~~ money shall be used for the purposes specified in ~~this section to acquire land or interest in it~~ until ~~and unless~~ the department and the commissioner of finance ~~shall have determined~~ determine that ~~such moneys~~ the money will not be required to meet the requisitions of the counties authorized under section 84A.23 or ~~for the payment of to pay~~ certificates of indebtedness and ~~their interest thereon therein~~ provided for in section 84A.23.

#### 84A.30 RULES VIOLATION A MISDEMEANOR.

~~Any person who;~~ Within the limits of ~~any such a~~ project, ~~shall willfully violate or fail to comply with any a willful violation of a~~ rule of the department adopted and promulgated in accordance with the provisions of under sections 84A.20 to 84A.30 ~~shall be guilty of is~~ a misdemeanor.

#### REFORESTATION AREAS AND PROJECTS, 1933

#### 84A.31 STATE REFORESTATION PROJECTS.

For the purpose of Subdivision 1. PURPOSES. The powers in this section are granted for the purpose of:

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(1) vesting and revesting the state with title to lands suitable primarily for the development of forests and prevention of forest fires, and for experimenting in and practically advancing afforestation and reforestation, ~~and for the purpose of;~~

(2) impounding, controlling, and regulating the water of meandered lakes and the flow of natural streams of the state, ~~and for the purpose of;~~

(3) creating and establishing wild game and fishing reserves, ~~or for either or any of these purposes;~~ or for

(4) any other public state purpose;

Subd. 2. COUNTY PROPOSAL TO STATE. Under certain conditions, the board of county commissioners of any county within which such lands are located, and in which, on January 1, 1933, the taxes on more than 25 percent of the acreage of the lands in any town in the county, as shown by the tax books thereof, are delinquent, and in which, on January 1, 1933, the taxes or ditch assessments on more than 50 percent of the acreage of the lands included in the area or project herein provided for, as shown by the tax books of the county, are delinquent, and of which, on January 1, 1933, the bonded ditch indebtedness of any county wherein any of the lands are located equals or exceeds 15 percent of the assessed value of the county for the year 1932, as fixed and determined by the Minnesota tax commission, exclusive of money and credits, may by resolution duly adopted propose to that the state of Minnesota take over part of the tax-delinquent lands in the county. The board may propose this if:

(1) the county contains land suitable for the purposes in subdivision 1;

(2) on January 1, 1933, the taxes on more than 25 percent of the acreage of the lands in a town in the county are delinquent, as shown by its tax books;

(3) on January 1, 1933, the taxes or ditch assessments on more than 50 percent of the acreage of the lands to be taken over are delinquent, as shown by the county's tax books; and

(4) on January 1, 1933, the bonded ditch indebtedness of the county equals or exceeds 15 percent of the assessed value of the county for 1932 as fixed by the Minnesota tax commission, exclusive of money and credits.

Subd. 3. FORM. Specifically, the board may propose that any "area in the county consisting of one or more townships, or part of any township, containing such lands be taken over by the state for afforestation, reforestation, flood control projects, wild game and fishing reserves, or other public state purpose, to be managed, controlled, and used for the development of forests and prevention of forest fires, and for the purpose of experimenting in and practically advancing afforestation, reforestation, or for the purpose of impounding, controlling, and regulating the waters of meandered lakes and the flow of natural streams, or for the purpose of creating and establishing wild game and fishing reserves, or for

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either or any such purposes," or for any other public state purpose, on lands to be acquired by the state within such projects, as ~~herein~~ set forth in this section. Each ~~such~~ area shall must include lands ~~which have been~~ assessed for all or part of the cost of the establishment, construction, or repair of public drainage ditches under the laws of this state law, and on which the assessments or installments thereon on them are ~~overdue, delinquent, and unpaid~~.

Subd. 4. ACTION ON RESOLUTIONS. A duly certified copy of the resolutions of the county board ~~shall must~~ be submitted to and filed with the department; ~~or such department as shall be established in lieu thereof; and~~ considered and acted upon by the department. If approved by the department, it ~~shall must~~ then be submitted to, considered, and acted upon by the executive council; ~~or such department as shall be established in lieu thereof; and.~~ If approved by the executive council, the proposition ~~shall must~~ be formally accepted by the governor. Acceptance ~~shall must~~ be communicated in writing to and filed with the auditor of the county.

Subd. 5. DEFINITIONS. State school, swamp, indemnity, and institutional lands ~~which have heretofore been; or shall hereafter be; that are~~ sold as provided by law and for which certificates of sale have been issued at the time of the passage of the resolution by the county board, and ~~all~~ lands owned by the conservator of rural credit ~~shall be considered~~ are taxable lands; within the meaning of this section; ~~and.~~ If the taxes or ditch lien installments on ~~such the~~ lands or the interest of the purchaser ~~therein in them~~ are delinquent, ~~shall be considered they are~~ they are lands on which the taxes are delinquent within the meaning of this section subdivision 2.

#### 84A.32 MANAGEMENT DEPARTMENT TO MANAGE PROJECTS.

Subdivision 1. RULES. (a) The department shall manage and control each of such projects ~~so project~~ approved and accepted ~~shall be under the management and control of the department, which shall have full power and authority to make; establish; promulgate; under section 84A.31.~~ The department may adopt and enforce all necessary rules not inconsistent with the laws of this state for the care, preservation, protection, and development of forests and for experimenting in and practically advancing afforestation and reforestation therein; and impounding, controlling, and regulating the waters of meandered lakes and the flow of natural streams; or for other public state purposes; and purposes in section 84A.31, subdivision 1, for the prevention of forest fires ~~therein in the projects,~~ and for the sale of merchantable timber from lands acquired by the state ~~therein in the projects~~ when and where, in the opinion of the department, the ~~same~~ timber may be sold and removed without damage ~~or injury~~ to the purposes of ~~such the~~ projects. ~~No such Rules shall in any manner must not~~ interfere with, destroy, or damage any privately owned property without just compensation being made to the owner of the private property by purchase or in lawful condemnation proceedings ~~duly instituted pursuant to the laws of this state.~~ The rules may relate to the care, preservation, protection, breeding, propagation, and disposition of any ~~and all~~ species of wildlife ~~therein in the~~

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projects and the regulation, issuance, sale, and revocation of special licenses or special permits for hunting, fishing, camping, or other uses of these areas ~~not inconsistent with the terms of any laws of the state now or hereafter~~ consistent with applicable thereto state law.

(b) The department may provide for the policing of each of the ~~projects in such manner~~ project as ~~may be needful~~ necessary for the proper development, use, and protection thereof of the project, and of its purpose; ~~and all~~. Supervisors, guards, custodians, and caretakers assigned to duty in ~~any such~~ a project ~~shall have and possess the authority and powers of peace officers while in its employ~~ employed by the department.

All (c) Lands within the ~~boundaries of such the~~ project shall be ~~are~~ subject to these rules, whether owned by the state, or privately, consistent with the constitutional rights of the private owners or with ~~the laws of this state now or hereafter~~ applicable thereto state law. The department may exclude from the operation of ~~any such the~~ rules any lands owned by private individuals upon which taxes are delinquent for three years or less. ~~All these Rules shall must be published once in the official newspaper of each county affected and shall take effect 30 days after the publication; and shall be; in addition thereto; They must also be posted on each of the four corners of each township of each project affected.~~

(d) In the management, operation, and control of ~~such areas as may be~~ taken for afforestation, reforestation, flood control projects, and wild game and fishing reserves, nothing shall be done ~~which that~~ will in any manner; ~~directly or indirectly;~~ obstruct or interfere with the operation of any ditches or drainage systems existing within ~~such the~~ areas, ~~nor shall anything be done which will in any manner, directly or indirectly; or~~ damage or destroy any of the existing roads or highways within these areas or projects, unless the ditches, drainage systems, roads, or highways ~~be~~ are first taken under the right of eminent domain and compensation made to the property owners and municipalities affected and damaged. Each ~~such~~ area or project shall contribute from the funds ~~and money~~ of the project, in proportion of the state land within the project, for the construction and maintenance of ~~such~~ roads and highways ~~as may be necessary~~ within ~~such the~~ areas and projects ~~in order to give the settlers therein and private owners of privately-owned lands within such areas them~~ access to their land. The department may construct and maintain ~~such~~ roads and highways within ~~such the~~ areas and projects as it ~~may deem~~ considers necessary.

Subd. 2. **PROCEEDS PAID INTO STATE TREASURY.** The following funds must be paid to the state treasury and credited to the projects to which they pertain and are annually appropriated for its purposes:

(1) the proceeds of all certificates of indebtedness issued under sections 84A.31 to 84A.42; ~~all;~~

(2) money received from redemption as provided in sections 84A.33 to 84A.42; ~~all;~~

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(3) money received as gifts to the state for the purpose of any such projects; and all;

(4) income which may be received from the operation, development, management, and use of such projects, including fees received from the sale of all birds, animals, fish, and flora therefrom plants from the projects, and the sale of all lands and timber thereon on them owned by the state within such the area, other than university, school, swamp, indemnity, or institutional lands, and state forests set apart pursuant to under the Minnesota Constitution of the state of Minnesota, article XI, section 11, and state lands acquired under the system of rural credit; and all

(5) state money of the state which may hereafter be transferred thereto to the projects under any state law of this state; shall be paid into the state treasury and credited to the project to which the same pertains; and the same are hereby annually appropriated for the purposes thereof; provided, that;

Under the provisions of sections 84A.31 to 84A.42, the aggregate or total of all certificates of indebtedness issued shall must not exceed the sum of \$750,000.

#### 84A.33 COUNTY AUDITORS TO CERTIFY TAX-DELINQUENT LANDS.

Subdivision 1. FIRST REPORT. As soon as practicable after the approval and acceptance of any such a project, the auditor of each county in which where the same project is situated shall certify to the commissioner of finance a list of all lands within the boundaries of any such the project, except lands lying within the boundaries of any an incorporated city, upon which taxes are delinquent for three years or more, which have been bid in for the state at any delinquent tax sale heretofore or hereafter held in the nonpayment of taxes, and which have not been redeemed or assigned to any actual purchaser; and which. The certificates shall must contain the following information:

- (1) the legal description of each parcel of such the land; and
- (2) the name and number of the ditch and the amount of the principal and interest of each delinquent drainage assessment as it appears on the county tax books of the county for all years prior to before the date of such the certificate against each such parcel of land, together with interest thereon on the amount at six percent per annum annually since the due date of the installment.

Subd. 2. FURTHER ANNUAL REPORTS. On or before the fifteenth day of June 15 in each year thereafter after the report, the county auditor shall certify to the commissioner of finance a list of all lands within the boundaries of any such a project, except lands lying within the boundaries of any a city, and except lands which have been described in any previous certificate, and upon which taxes are delinquent for three years or more and which have been bid in for the state at any delinquent tax sale heretofore or hereafter held for the nonpayment of taxes; and which have not been redeemed or assigned to an actual purchaser; and which. The certificate shall must contain the following information:

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(1) The legal description of each parcel of ~~such~~ the land, contained in ~~any~~ prior an earlier certificate upon which all taxes have been redeemed;

(2) The legal description of each parcel of ~~such~~ the lands which, on May ~~fourteenth~~ 14 of the year ~~in which~~ when the certificate is furnished, is delinquent for three years or more;

(3) The name and number of the ditch and the amount of the principal and interest of each delinquent ditch assessment installment as it appears on the county tax books of the county for all years ~~prior to before~~ the date of ~~such~~ the certificate against each ~~such~~ parcel of land, together with interest ~~thereon~~ on the amount at the an annual rate of six percent ~~per annum~~ since the due date of each installment; ~~provided, that,~~ The certificate ~~shall~~ must not contain the delinquent drainage assessment installments included in any certificate ~~there- before~~ furnished earlier.

Subd. 3. DRAINAGE ASSESSMENTS; REPORT WHEN PAID OR ASSIGNED. When the delinquent drainage assessment installment on any ~~such~~ parcel of land included in ~~any~~ such a certificate of the county auditor is redeemed, paid, or assigned to any person, the county auditor shall ~~forthwith~~ report the ~~same fact~~ to the commissioner of finance ~~and~~. The county treasurer shall ~~forthwith remit to pay~~ the state treasurer the amount ~~so~~ paid in the county treasury on account of ~~any~~ such the delinquent drainage assessment ~~installment~~ or installments.

Forthwith Subd. 4. DITCH BONDS; FUNDS; PAYMENTS TO COUNTIES. (a) Upon the approval and acceptance of ~~any~~ such a project and ~~thereaf- ter,~~ after each distribution ~~has been made~~ of the tax collections for the June and November tax settlements, ~~such~~ the county auditor shall certify to the commis- sioner of finance the following information ~~relating to about~~ bonds issued to finance or refinance public drainage ditches ~~lying~~ wholly or partly within ~~such~~ the projects, and the collection of assessments levied ~~on account of~~ such for the ditches:

(1) the amount of principal and interest to become due on ~~such~~ the bonds ~~prior to before~~ the next ~~ensuing~~ tax settlement and distribution;

(2) the amount of ~~moneys~~ money collected from ~~such~~ the drainage assess- ments and credited to the funds of ~~such~~ the ditches, not already ~~transmitted~~ sent to the state treasurer as provided in sections 84A.31 to 84A.42; ~~and~~

(3) the amount of the deficit in the ditch fund of the county chargeable to ~~such~~ the ditches.

Forthwith upon the approval of (b) On approving this certificate of the county auditor ~~by,~~ the commissioner of finance; ~~the commissioner~~ shall draw a warrant ~~or warrants~~ on the state treasurer, payable out of the fund ~~herein~~ provided for in sections 84A.31 to 84A.42, and ~~transmit the same~~ send it to the county treasurer of the county; ~~and~~. These ~~moneys~~ shall funds must be credited

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to the proper ditch of the county and placed in the ditch bond fund of the county, which is hereby created, and used only to pay the ditch bonded indebtedness of the county assumed by the state under sections 84A.31 to 84A.42; and for no other purpose. The total amount of such warrants so to be drawn by the commissioner of finance shall must not exceed in any one year the total amount of the deficit hereinafter provided for under this section.

(c) The state shall be is subrogated to all title, right, interest, or lien of the county in or on the lands so certified within these projects.

(d) As to all public drainage ditches which lie wholly within any such a project, the maximum amount of money which shall be paid to, or for the benefit of, the county, in the manner above provided, shall under this subdivision must never exceed the principal and interest of the bonds issued to finance or refinance any such a ditch outstanding at the time of the passage and approval of sections 84A.31 to 84A.42 on April 22, 1933, less moneys money on hand in the county ditch fund to the credit of any such a ditch; and, These liabilities shall must be reduced from time to time by the amount of any and all payments of assessments hereafter extended after April 22, 1933, made by the owners of lands heretofore assessed before that date for benefits on account of such the ditches.

As to all public drainage ditches which lie partly within and partly without the boundaries of any such outside a project the maximum amount which shall be paid from the fund pertaining to such the project to or for the benefit of the county shall must never exceed the a certain percentage of bonds issued to finance and refinance any such a ditch so outstanding, less moneys money on hand in the county ditch fund to the credit of any such a ditch at the time of the passage and approval of sections 84A.31 to 84A.42, which bears on April 22, 1932. The percentage must bear the same proportion to the whole amount of such the bonds as the original benefits assessed against these lands within the project bear to the original total benefits assessed to the entire system for any such a ditch; and, This liability shall must be reduced from time to time by the payments of all assessments hereafter extended after April 22, 1933, made by the owners of lands within the project of assessments for benefits heretofore assessed before that date on account of any such a ditch.

Subd. 5. FORMS AND INFORMATION. The commissioner of finance shall have authority to may provide and prescribe the forms for any required reports and to require any further and additional information from any county officials of any such county which the commissioner of finance deems finds necessary for the proper administration thereof of sections 84A.31 to 84A.42.

#### 84A.36 LANDS TO BE HELD BY STATE IN FEE.

The title to all parcels of land lying within any such a project, except lands lying within the boundaries of any a city, which shall be that are acquired by the state under the provisions of section 280.13, shall Laws 1927, chapter 119, as amended, must be held by the state free from any trust in favor of the taxing

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districts specified ~~therein and shall in that chapter.~~ Title must be held and used or disposed of in accordance with the provisions of any law of this state law.

#### 84A.37 COMMISSIONER OF FINANCE TO CERTIFY LIST TO DEPARTMENT.

Upon receipt by the commissioner of finance of ~~On receiving~~ the reports of the county auditor specified in section 84A.33, the commissioner of finance shall certify a copy thereof of the report to the department, which. ~~The department shall classify all such the lands as to their suitability for agriculture or for afforestation, reforestation, or for the purpose of impounding, controlling, and regulating the waters of meandered lakes and flow of natural streams, or for other public state purposes; and.~~ After the state acquires title to any such the land has been acquired by the state in the manner herein as provided in sections 84A.31 to 84A.42, such the lands may be reclassified from time to time. All such Lands which that become the absolute property of the state under the provisions of sections 84A.31 to 84A.42 which and have been classified as suitable for agriculture, and timber from any lands so acquired, shall be subject to sale or rental may be sold or rented by the state; as provided by law.

#### 84A.38 DEPARTMENT TO RECEIVE ACCEPT GIFTS.

The department is hereby authorized and empowered to may receive for and in behalf of the state and to make suitable acknowledgment thereof acknowledge any gift, bequest, devise, or grant of land, or interests in lands, in any such a project, or of money or personal property of any kind, which that it may deem finds suitable for use in connection with the operation, control, development, or use of any or all such projects.

#### 84A.39 DEPARTMENT SHALL HAVE RIGHT OF EMINENT DOMAIN.

The department has the right of eminent domain in chapter 117. The department is hereby authorized and empowered to may acquire by exercise of the right of eminent domain, which right is hereby given it, to be exercised in the manner provided in chapter 117, or by purchase, any privately owned lands or interests in lands within the boundaries of any such a project which that it shall deem considers necessary for state ownership, use, or development for the purposes of sections 84A.31 to 84A.42; provided, that. No money shall be used for the purposes specified in this section to acquire land or interest in it until and unless the department and the commissioner of finance shall have determined determine that such the money will not be required to meet the requisitions of the counties authorized under section 84A.33 or for the payment of to pay certificates of indebtedness and their interest thereon herein provided for.

#### 84A.40 COUNTY MAY ASSUME BONDS.

Any county ~~wherein any such where~~ a project or portion thereof of it is ~~voluntarily assume, in the manner hereinafter specified in this section,~~ the obligation to pay that a portion of the principal and interest of the

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bonds issued before the approval and acceptance of the project and remaining unpaid at maturity, of any school district or town ~~situated~~ in the county and wholly or partly ~~lying~~ within the project; ~~which~~. The portion bears must bear the same proportion to the whole of the unpaid principal and interest as the last assessed valuation, ~~prior to before~~ the acceptance of the project, of lands then acquired by the state ~~pursuant to under~~ sections 84A.31 to 84A.42 in ~~such the~~ school districts or towns bears to the total assessed valuation for the same year of the school district or town. This assumption ~~shall must~~ be evidenced by a resolution of the county board of the county; ~~A copy of which shall the~~ resolution must be certified to the commissioner of finance within one year after the acceptance of the project; ~~and thereafter~~.

Later, if any ~~such of the~~ bonds ~~shall remain~~ remains unpaid at maturity, the county board shall, upon demand of the governing body of the school district or town or of the holder of any ~~such bond~~ a bondholder, provide for the payment of the portion ~~thereof so~~ assumed; ~~and~~. The county shall levy general taxes on all the taxable property of the county ~~therefor for that purpose~~, or issue its bonds to raise ~~such the~~ sum as ~~may be~~ needed, conforming to the provisions of law respecting the issuance of county refunding bonds. The proceeds of ~~such~~ taxes or bonds ~~shall must~~ be paid ~~over~~ by the county treasurer to the treasurer of the school district or town; ~~provided, that~~. No ~~such~~ payments shall be made by the county to the school district or town until ~~such time as~~ the money in the treasury of the school district or town, together with the money ~~so~~ to be paid by the county, ~~shall be is~~ sufficient to pay in full each of the bonds as it ~~may become becomes~~ due.

In the event that any such ~~If a~~ county ~~shall fail or neglect so fails~~ to adopt and certify ~~such the~~ resolution, the commissioner of finance shall withhold from the payments to be made to the county under the provisions of section 84A.32 a sum equal to that portion of the principal and interest of ~~such the~~ outstanding bonds ~~which that~~ bears the same proportion to the whole ~~thereof of the bonds~~ as the above determined assessed valuation of lands acquired by the state within the project bears to the total assessed valuation for the same year of the school district or town. Money ~~so~~ withheld from the county ~~shall must~~ be set aside in the state treasury and not paid to the county until the full principal and interest of the school district and town bonds ~~shall~~ have been paid.

In the event that If any ~~such~~ bonds remain unpaid at maturity, upon the demand of the governing body of the school district or town, or the holder of any ~~such bonds~~ a bondholder, the commissioner of finance shall issue to the treasurer of the school district or town a warrant on the state treasurer for that portion of the past due principal and interest computed as in the case of the county's liability ~~hereinbefore~~ authorized in this section to be voluntarily assumed. ~~All~~ Money received by any a school district or town ~~pursuant to under~~ this section ~~shall must~~ be applied to the payment of ~~such~~ past-due bonds and interest.

#### 84A.41 DEFINITIONS.

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

Subdivision 1. **TAXES.** ~~The word "Taxes,"~~ as used in sections 84A.31 to 84A.42; ~~shall be held to include~~ includes taxes of every kind; ~~including and~~ special assessments of every kind.

Subd. 2. **BONDS ~~OR~~ AND BONDED INDEBTEDNESS.** ~~The words "Bonds" or and~~ "bonded indebtedness," as used in sections 84A.31 to 84A.42, include bonds and accumulated interest ~~thereon~~ on bonds of every nature issued to finance or refinance the construction, maintenance, or repair of public drainage ditches.

#### 84A.42 ~~VIOLATIONS RULES~~ VIOLATION A MISDEMEANOR.

~~Any~~ A person who within the limits of any project established in accordance with the ~~provisions~~ of section 84A.31 ~~shall willfully violate or fail to comply with any~~ willfully violates a rule of the department of natural resources adopted and promulgated in accordance with the ~~provisions of~~ under sections 84A.31 to 84A.42 ~~shall be deemed is~~ guilty of a misdemeanor.

### FINANCES

#### 84A.50 ~~CERTAIN CERTIFICATES ACCEPTED AS CORRECT AND VALIDATED.~~

All Certificates relating to bonds issued to finance or refinance public drainage ditches, the principal and interest ~~thereof~~ of the bonds, the amount of ~~moneys~~ money collected from drainage assessments and credited to ditches, and the amount of the deficit in the ditch fund made by a county auditor ~~pursuant to Minnesota Statutes 1945,~~ under section 84A.04, 84A.23 or 84A.33; ~~or any predecessor statute thereof~~ to the commissioner of finance on which payment has been made by the state are accepted as correct and are validated.

#### 84A.51 **CONSOLIDATED CONSERVATION AREAS FUND.**

Subdivision 1. **FUND CREATED.** There is created in the state treasury the consolidated conservation areas fund, ~~hereinafter referred to as~~ also called the consolidated fund.

Subd. 2. **FUNDS TRANSFERRED; APPROPRIATED.** All Money in any fund established ~~pursuant to~~ under section 84A.03, 84A.22 or 84A.32, subdivision 2, ~~are is~~ transferred to the consolidated fund, except as provided in subdivision 3. The money in the consolidated fund, or ~~so~~ as much ~~thereof of it~~ as ~~may~~ be necessary, ~~are hereby is~~ appropriated for the purposes of sections 84A.52 and 84A.53.

Subd. 3. **PAYMENTS TO COUNTY.** Within 30 days after the end of each fiscal year the commissioner of finance shall pay one-half of the income received in the consolidated fund in that fiscal year to the county ~~wherein is located~~ containing the land from which ~~such~~ the income is derived; ~~and~~. That amount is ~~hereby~~ so appropriated.

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Subd. 4. **COUNTY'S USE OF FUNDS.** The funds received by each county shall must be apportioned by the county auditor as follows:

(1) 30 percent to a county development fund, which is hereby created, to be expended spent under the direction of the county board for the rehabilitation and development of the portion of the county ~~lying~~ within the conservation area;

(2) 40 percent to the capital outlay fund of the school district from which derived;

(3) 20 percent to the county revenue fund; and

(4) ten percent to the township road and bridge fund of the township from which derived, ~~provided however, that in the event,~~

If the proceeds are derived from an unorganized township ~~wherein there is~~ with no levy for road and bridge purposes, the township portion shall must be credited to the county revenue fund.

#### 84A.52 ACCOUNTS; EXAMINATION, APPROPRIATION, PAYMENT.

As a part of the examination provided for by section 6.48, of the accounts of the several counties within a game preserve, area, or project established pursuant to Minnesota Statutes 1945, under section 84A.01, 84A.20, or 84A.31, the state auditor shall segregate the audit of the accounts reflecting the receipt and disbursement of all money collected or disbursed pursuant to Minnesota Statutes 1945, under chapter 84A or from the sale of any tax-forfeited lands which are held by the state pursuant to Minnesota Statutes 1945, under section 84A.07, 84A.26 or 84A.36; and. The auditor shall also include in the reports required by section 6.48 summary statements as of December 31 ~~preceding~~ before the examination which shall that set forth the proportionate amount of principal and interest due from the state to the individual county and any money due the state from the county remaining ~~unremitted~~ unpaid under this chapter, or from the sale of any tax-forfeited lands referred to ~~above~~ in this section, and ~~such~~ other information as required by the commissioner of finance may require. ~~Upon the receipt of~~ On receiving a report, the commissioner of finance shall determine the net amount due to the county for the period covered ~~thereby~~ by the report and shall draw a warrant upon the state ~~treasurer~~ treasury payable out of the consolidated fund for ~~such~~ that amount which shall. It must be paid to and received by the county as payment in full of all amounts due for the period stated ~~thereon~~ on the warrants from the state under any provision of Minnesota Statutes 1945, chapter 84A this chapter.

There Money to pay the warrants is hereby appropriated to the counties entitled to ~~such~~ payment; from the consolidated fund in the state treasury; ~~such~~ sums as may be necessary to pay the warrants specified herein.

#### 84A.53 ~~CERTAIN~~ RECEIPTS NOT CREDITED TO CONSOLIDATED FUND.

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

Subdivision 1. **TAX LEVIES.** All moneys heretofore or hereafter Money collected from tax levies heretofore made pursuant to Minnesota Statutes 1945, before April 19, 1949, under chapter 84A, shall must be deposited in the state treasury to the credit of the general fund. Upon completion of the payment provided for in section 84A.52, the commissioner of finance shall make the appropriate entries. None of the moneys Money referred to in this section shall must not be used for the payments provided for in under section 84A.52 until all other moneys money in the consolidated fund have has been expended spent.

Subd. 2. **LAND SALES.** The portion of the money received from the sale of tax-forfeited lands that are held by the state pursuant to under section 84A.07, 84A.26, or 84A.36, that would not be paid to the counties if all of the sale proceeds were deposited in the consolidated conservation fund, shall must be deposited in the land acquisition account. The remaining amount shall must be paid to the counties under section 84A.51 as if all of the sale proceeds were deposited in the consolidated conservation fund.

#### 84A.54 **CERTAIN COLLECTIONS DEPOSITED IN CONSOLIDATED FUND.**

Except as provided in section 84A.53, all money hereafter received from any source pursuant to Minnesota Statutes 1945, after April 18, 1949, under chapter 84A shall must be deposited in the consolidated fund.

### ADMINISTRATION

#### 84A.55 **CERTAIN GAME PRESERVES, AREAS, PROJECTS; CONTROL COMMISSIONER'S CONTROL OF CONSERVATION LANDS.**

Subdivision 1. **GENERAL CONTROL.** All Game preserves, areas, and projects established pursuant to Minnesota Statutes 1945, under section 84A.01, 84A.20, or 84A.31, are under the management, operation, and control of the commissioner of natural resources, herein called. The commissioner, who shall have has the powers and duties relating thereto granted and prescribed provided in this section.

Subd. 2. **FOREST PROTECTION.** The commissioner shall care for, preserve, protect, and develop the forests therein, in preserves, areas, and projects; shall prevent forest fires therein in them so far as means are available; and may experiment in and practically advance afforestation and reforestation therein there.

Subd. 3. **TIMBER SALES.** The commissioner may sell in like manner to the sale of timber on other state lands the merchantable timber on lands which are held by the state pursuant to Minnesota Statutes 1945, under section 84A.07, 84A.26, or 84A.36. It must be sold in the same way as timber on other state lands.

Subd. 4. **WATERS.** The commissioner may impound, control, and regulate

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the waters of meandered and other public lakes ~~therein~~ in preserves, areas, and projects and the flow of natural streams ~~therein~~.

Subd. 5. **WILDLIFE.** The commissioner shall care for, protect, and preserve any ~~or all~~ species of wildlife ~~therein~~ there, so far as means are available.

Subd. 6. **REGULATION; LICENSING.** The commissioner may regulate and license, subject to revocation for violation of any state law of this state relating to wild animals or of ~~Laws 1949, chapter 498~~ this section, the breeding, propagation, and disposition of wildlife ~~therein~~ in preserves, areas, or projects by any person as ~~may be~~ necessary to execute subdivision 5.

Subd. 7. **HUNTING AND OTHER LICENSES.** The commissioner may issue, subject to revocation for violation of any state law of this state relating to wild animals or of sections 84A.50 to 84A.55, special licenses or permits for hunting, fishing, camping, or other uses ~~not inconsistent therewith~~ consistent with those sections or any other applicable state law of this state.

Subd. 8. **POLICING.** The commissioner may police the game preserves, areas, and projects as ~~may be~~ necessary to ~~execute the provisions of~~ carry out this section. ~~All~~ Persons assigned to the policing ~~shall~~ have the ~~authority and~~ powers of police officers while so engaged.

Subd. 9. **DRAINAGE.** The commissioner may make necessary investigations and surveys for and may undertake projects for the drainage of any state-owned lands within ~~any a~~ game preserve, conservation area, or other area subject to the provisions hereof this section so far as the commissioner ~~shall determine~~ determines that ~~such the~~ lands will be benefited thereby in furtherance of benefit from the project for the purposes for which the area was established; ~~and~~ The commissioner may pay the cost thereof of drainage projects out of any funds appropriated and available ~~therefor for them~~. If the commissioner ~~shall determine~~ finds after investigation that ~~any a~~ project for the construction, repair, or improvement of ~~any a~~ public ditch or ditch system undertaken by ~~any a~~ county or other public agency as otherwise provided by law will benefit ~~such the~~ lands ~~in furtherance of said for those~~ purposes, the commissioner may cooperate in ~~such the~~ project by joining in the petition ~~therefor for the project~~ or consenting thereto ~~to~~ or approving the same ~~upon such it on any~~ conditions as the commissioner ~~shall determine, and determines~~ determines. ~~The commissioner~~ shall authorize the imposition of assessments ~~therefor upon such for the projects on the~~ lands in ~~such any~~ amounts as the commissioner ~~shall determine~~ determines, or may make lump sum contributions to the county or other public funds established for the payment of the cost of the project; ~~provided, such~~ The assessments or contributions ~~shall must~~ not in any case exceed the value of ~~such~~ benefits to ~~such the~~ state-owned lands as determined by the commissioner and specified by written certificates or other statement filed in the proceedings; ~~and shall be~~ Assessments or contributions are payable only out of funds appropriated and available ~~therefor for them~~ in ~~such~~ amounts as the commissioner ~~may determine~~ determines. The commissioner of natural resources shall establish by

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rule before January 1, 1986, the criteria for determining benefits to state-owned lands held or used for the purpose of ~~protecting~~ to protect or ~~propagating~~ propagate wildlife, ~~providing~~ provide hunting or fishing for the public, or serve other purposes relating to conservation, development, or use of soil, water, forests, wild animals, or related natural resources.

Subd. 10. **ROADS; LANDING STRIPS.** The commissioner may construct and maintain and contribute funds for construction and maintenance of roads and airplane landing fields or strips within ~~any a~~ a game preserve, conservation area, or other area subject to the ~~provisions hereof~~ this section. Payments for highway purposes under this subdivision may be made to any governmental subdivision or to the United States in ~~such~~ amounts as set by the commissioner ~~shall determine~~ from the fund created by section 84A.51.

Subd. 11. **RULES.** The commissioner may promulgate rules necessary for the execution of this section, including ~~but not limited to~~ the conditions of licenses and permits under subdivision 7 and the amount of license fees to be paid therefor, giving. In addition to notice required by other ~~provisions of law,~~ the commissioner must give 30 days ~~days'~~ notice posted in each township affected ~~thereby by the rules.~~ Every such rule shall ~~The rules~~ have the force and effect of law, and any violation thereof ~~shall be of rules is~~ a misdemeanor. ~~All~~ Lands within the boundaries of ~~any a~~ a game preserve, area, or project referred to in subdivision 1, whether owned privately or by the state or any governmental subdivision thereof, ~~shall be are~~ are subject to ~~such the rules to the fullest extent~~ consistent with the constitutional rights of private owners or ~~with any other applicable provision of the laws of this state law.~~

Subd. 12. **COMPENSATION.** Nothing shall be done under this section ~~which that will in any manner, directly or indirectly, obstruct or interfere with~~ the operation of ~~any~~ ditches or drainage systems existing in any game preserve, area, or project referred to in subdivision 1, or damage or destroy any existing road or highway ~~therein in it~~, so far as constructed, improved, or maintained by any governmental subdivision or public agency or person other than the commissioner, unless the right ~~thereto shall to them is~~ first be acquired by the commissioner by purchase or condemnation, upon payment of just compensation to the ~~governmental political~~ subdivision, public agency, or person affected and damaged thereby.

Subd. 13. **BUYING LAND.** The commissioner may acquire by purchase or condemnation any land or interest ~~therein in land~~ or any public work or project or right ~~therein which may be in it~~ necessary for any purpose ~~herein~~ authorized in this section.

Subd. 14. **SOURCE OF FUNDS.** ~~All~~ Salaries and expenses incurred ~~in the execution of to carry out~~ this section ~~shall must~~ be paid from money appropriated from the consolidated fund or ~~such other fund as may be~~ designated in the applicable appropriation ~~act~~.

#### 84A.56 CONSOLIDATED CONSERVATION LAND ACQUISITION AND DISPOSITION.

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

Subdivision 1. **CONSOLIDATED CONSERVATION LAND ACQUISITION AND DISPOSITION PLAN.** Before the commissioner may acquire or dispose of land in the game preserves, areas, and projects established under ~~Minnesota Statutes 1945~~, section 84A.01, 84A.20, or 84A.31, in any county, the commissioner must prepare a county land acquisition and disposition plan. The plan must identify the general areas where the commissioner intends to acquire or dispose of land and their accompanying reasons. The plan must emphasize a balance of uplands and wetlands.

Subd. 2. **REVIEW BY COUNTY BOARD.** The plan must be submitted to the county board for review and comment. The board must notify the commissioner of natural resources of any concerns or disagreements with the plan within 90 days after receiving the plan or proposal.

Subd. 3. **DEPARTMENT REVIEW OF APPRAISALS.** The county board must submit appraisals for land offered for sale under this section to the commissioner for review at least 30 days before the date of the sale.

#### 84A.57 CERTAIN TAX-FORFEITED LAND HELD IN TRUST FOR COUNTY.

Notwithstanding any law to the contrary, land that forfeits to the state for nonpayment of taxes and is in a game preserve, ~~areas~~ area, or ~~projects~~ project established under ~~Minnesota Statutes 1945~~, section 84A.01, 84A.20, or 84A.31 ~~shall~~ must be held in trust for the taxing district as land outside a game preserve, area, or project. The lands ~~shall~~ must be disposed of and managed, and have income from the land allocated, in the same manner as land that is outside a game preserve, area, or project.

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## ARTICLE 2

Section 1. Minnesota Statutes 1986, chapter 105, is amended to read:

### 105.37 DEFINITIONS.

Subdivision 1. **SCOPE.** ~~Unless the language or context clearly indicates that a different meaning is intended; The following words and terms; for the purposes of in sections 105.37 to 105.55; shall have the meanings subjoined to given them in this section.~~

Subd. 2. **COMMISSIONER.** "Commissioner" means ~~the~~ the Minnesota's commissioner of natural resources ~~of the state of Minnesota.~~

Subd. 3. **DIVISION.** "Division" means the division of waters, soils and minerals of the state department of natural resources ~~of the state of Minnesota.~~

Subd. 4. **DIRECTOR.** "Director" means the director of the division of waters, soils and minerals of the state department of natural resources ~~of the state of Minnesota.~~

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Subd. 5. **APPROPRIATING.** "Appropriating" includes but is not limited to "taking," regardless of the use to which the water is put how the water is used.

Subd. 7. **WATERS OF THE STATE.** "Waters of the state" means any waters, surface or underground, except ~~these~~ surface waters ~~which that~~ are not confined but are spread and diffused over the land. "Waters of the state" includes ~~all~~ boundary and inland waters.

Subd. 8. **ABANDON.** "Abandon" means to give up the use and maintenance of the described structures or improvements to realty and to surrender ~~the same them~~ to deterioration, ~~without reference.~~ It does not refer to any intent to surrender or relinquish title to or possessory interest in the real property constituting the site of the structures or improvements. "Abandoned" and "abandonment" have meanings consistent with ~~this~~ the definition of "abandon."

Subd. 9. **WATERBASIN.** "Waterbasin" means an enclosed natural depression with definable banks capable of containing water ~~which that~~ may be partly filled with waters of the state and ~~which that~~ is discernible on aerial photographs.

Subd. 10. **NATURAL WATERCOURSE.** "Natural watercourse" means ~~any a~~ natural channel ~~which that~~ has definable beds and banks capable of conducting confined runoff from adjacent lands.

Subd. 11. **ALTERED NATURAL WATERCOURSE.** "Altered natural watercourse" means a former natural watercourse ~~which that~~ has been affected by artificial changes in straightening, deepening, narrowing, or widening of to straighten, deepen, narrow, or widen the original channel.

Subd. 12. **ARTIFICIAL WATERCOURSE.** "Artificial watercourse" means a watercourse ~~which has been~~ artificially constructed by human beings where there was no previous natural watercourse.

Subd. 13. **MEANDERED LAKES.** "Meandered lakes" means all bodies of water except streams lying within the meander lines shown on plats made by the United States General Land Office.

Subd. 14. **PUBLIC WATERS.** "Public waters" includes and shall be limited to the following waters of the state:

(~~a~~) (1) All waterbasins assigned a shoreland management classification by the commissioner pursuant to section 105.485, except wetlands less than 80 acres in size which are classified as natural environment lakes;

(~~b~~) (2) All waters of the state which have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;

(~~c~~) (3) All meandered lakes, except for those which have been legally drained;

(~~d~~) (4) All waterbasins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;

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(e) (5) All waterbasins designated as scientific and natural areas pursuant to section 84.033;

(f) (6) All waterbasins located within and totally surrounded by publicly owned lands;

(g) (7) All waterbasins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;

(h) (8) All waterbasins where there is a publicly owned and controlled access which is intended to provide for public access to the waterbasin; and

(i) (9) All natural and altered natural watercourses with a total drainage area greater than two square miles, except that trout streams officially designated by the commissioner shall be public waters regardless of the size of their drainage area.

The public character of water shall not be determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water which was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

For the purposes of statutes other than sections 105.37, 105.38 and 105.391, the term "public waters" shall include "wetlands" unless the statute expressly states otherwise.

Subd. 15. **WETLANDS.** "Wetlands" includes, and shall be limited to, all types 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, which are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

Subd. 16. **ORDINARY HIGH WATER LEVEL.** "Ordinary high water level" means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level shall be the elevation of the top of the bank of the channel. For reservoirs and flowages the ordinary high water level shall be the operating elevation of the normal summer pool.

#### 105.38 DECLARATION OF POLICY.

In order To conserve and utilize use the state's water resources of the state in the best interests of the its people of the state, and for the purpose of ~~promoting to~~ promote the public health, safety, and welfare, ~~it is hereby declared to be~~ the policy of the state is as follows:

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(+) (a) Subject to existing rights ~~at~~, public waters and wetlands are subject to the control of the state.

(2) (b) The state, to the extent provided by law ~~from time to time~~, shall control the appropriation and use of surface and underground waters of the state.

(3) (c) The state shall control and supervise, so far as practicable, any activity ~~which that~~ changes or ~~which~~ will change the course, current, or cross-section of public waters or wetlands, including but not limited to the construction, reconstruction, repair, removal, abandonment, the making of any other change, or the transfer of ownership of dams, reservoirs, control structures, and waterway obstructions in ~~any of the~~ public waters or wetlands of the state.

### 105.39 AUTHORITY AND POWERS OF COMMISSIONER.

Subdivision 1. **WATER CONSERVATION PROGRAM.** The commissioner shall ~~devise and~~ develop a general water resources conservation program for the state. The program shall must contemplate the conservation, allocation, and development of all the waters of the state, surface and underground, for the best interests of the people. The commissioner shall must be guided by ~~such the~~ program in ~~the issuance of~~ issuing permits for the use and appropriation of the waters of the state and the construction, reconstruction, repair, removal, or abandonment of dams, reservoirs and other control structures, as provided by sections 105.37 to 105.55.

Subd. 2. **SURVEYS AND INVESTIGATIONS.** The commissioner is ~~authorized to cause to be made all such~~ may have surveys, maps, investigations, and studies made of the water resources and topography of the state as the commissioner ~~deems~~ finds necessary to provide the information to ~~formulate~~ set up a program and ~~carry out the provisions of~~ sections 105.37 to 105.55.

Subd. 3. **ALLOCATION AND CONTROL OF WETLANDS AND WATERS.** The commissioner shall ~~have administration over~~ administer:

- (1) the use, allocation, and control of public waters and wetlands;
- (2) the establishment, maintenance, and control of lake levels and water storage reservoirs; and
- (3) the determination of the ordinary high water level of ~~any~~ public waters and wetlands.

Subd. 4. **POWER TO ACQUIRE PROPERTY; EMINENT DOMAIN.** The commissioner shall ~~have the power to~~ may acquire title to any private property for any authorized purpose by purchase or by ~~the exercise of the right of eminent domain; and~~. The use of ~~such this~~ property ~~in the furtherance of~~ for lawful projects under sections 105.37 to 105.55 is ~~hereby declared to be~~ a public purpose. On request by the commissioner, the attorney general shall ~~proceed to~~ acquire the necessary title to private property for ~~such that~~ use under ~~the provisions of Minnesota Statutes 1945, chapter 117.~~

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Subd. 5. **CONTRACTS.** The commissioner is ~~authorized to~~ may approve contracts for ~~all~~ works under sections 105.37 to 105.55, ~~to~~ change the plans thereof ~~of the works~~ when necessary, and ~~to~~ supervise, control, and accept the ~~same them~~ when complete. The commissioner is ~~further authorized to~~ cause may have the same works, ~~together with and~~ expenses incurred in connection therewith ~~with them,~~ to be paid for out of ~~any~~ funds ~~made~~ available to the use of the commissioner.

Subd. 6. **STATEWIDE WATER INFORMATION SYSTEM.** The commissioner, in cooperation with other state agencies, including the Minnesota geologic survey, shall establish and maintain a statewide system to gather, process, and ~~disseminate~~ distribute information on the availability, distribution, quality, and use of waters of the state. Each local, regional, and state governmental unit, its officers and employees shall cooperate with the commissioner in ~~accomplishing the purpose of~~ carrying out this subdivision.

#### 105.391 WATERS INVENTORY AND CLASSIFICATION.

Subdivision 1. **INVENTORY, COUNTY BOARD REVIEW, HEARINGS.** On the basis of ~~all~~ information available to the commissioner and the criteria ~~set forth~~ in section 105.37, subdivisions 14 and 15, the commissioner shall inventory the waters of each county and make a preliminary designation as to which ~~constitute~~ are public waters and wetlands. The commissioner shall send a list and map of the waters preliminarily designated as public waters and wetlands in each county to the county board of that county for its review and comment.

The county board shall conduct at least one public informational meeting within the county regarding the commissioner's preliminary designation. After conducting the meetings and within 90 days after receipt of the list or maps, the county board shall present its recommendation to the commissioner, listing any waters regarding which the board disagrees with the commissioner's preliminary designation and stating with particularity the waters involved and the reasons for disagreement.

The commissioner shall review the county board's response and, in agreement with any of the board's recommendations, shall revise the list and map to reflect the recommendations. Within 30 days after receiving the county board's recommendations, the commissioner shall also notify the county board ~~as to~~ which recommendations are accepted and rejected and the reasons for the decision.

After the revision of the map and list, if any, or if no response is received from the county board within the 90 days review period, the commissioner shall file the revised list and map with the recorder of each county and shall ~~cause have~~ the list and map ~~to be~~ published in the official newspaper of the county. The published notice ~~shall~~ must also state that any person or any county may challenge the designation of specific waters as public waters or wetlands or may request the designation of additional waters as public waters or wetlands, by filing a petition for a hearing with the commissioner within 90 days following

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the date of publication. The petition ~~shall~~ must state with particularity the waters for which the commissioner's designation is disputed and ~~shall set forth~~ the reasons for disputing the designation.

If any designations are disputed by petition, the commissioner shall order a public hearing to be held within the county within 60 days following the 90-day period. Notice of ~~which shall~~ the hearing must be published in the state register and the official newspaper of the county. The hearings ~~shall~~ must be conducted by a hearings unit. The unit is composed of: one person appointed by the affected county board; one person appointed by the commissioner; and one board member of the local soil and water conservation district or districts within the county who ~~shall~~ must be selected by the other two members at least 20 days ~~prior to~~ before the hearing date. The expenses ~~of and per diem payments to~~ of any member of the hearings unit who is not a state employee ~~shall~~ must be paid as provided for in section 15.059, subdivision 3, within the limits of funds available from grants to the county ~~pursuant to~~ under Laws 1979, chapter 199, section 16.

~~In the event~~ If there is a watershed district whose boundaries include the waters involved, the district may ~~provide~~ give the hearings unit ~~with~~ its recommendations.

Within 60 days ~~following~~ after completion of the hearing, the hearings unit shall issue its findings of fact, conclusions and an order, which ~~shall~~ must be considered the decision of an agency in a contested case for purposes of judicial review ~~pursuant to~~ under sections 14.63 to 14.69. The commissioner, the county, or any person aggrieved by the decision of the hearings unit may appeal from the hearings unit's order. ~~Upon receipt of~~ On receiving the order of the hearings unit and after the appeal period has expired, or ~~upon receipt of~~ on receiving the final order of the court in the case of an appeal, the commissioner shall publish a list of the waters determined to be public waters and wetlands. The commissioner shall complete the public waters and wetlands inventory by December 31, 1982.

**Subd. 3. PERMISSION TO DRAIN WATERS AND WETLANDS.** Except as provided below, no public waters or wetlands shall be drained, and no permit authorizing drainage of public waters or wetlands shall be issued, unless the public waters or wetlands being drained are replaced by public waters or wetlands ~~which~~ that will have equal or greater public value. However, after a state waterbank program has been established, wetlands ~~which~~ that are eligible for inclusion in that program may be drained without a permit and without replacement of wetlands of equal or greater public value if the commissioner does not ~~elect~~ choose, within 60 days of the receipt of receiving an application for a permit to drain the wetlands, to ~~either~~ (1) place the wetlands in the state waterbank program, or (2) acquire it ~~pursuant to~~ under section 97A.145, or (3) indemnify the landowner through ~~any~~ other appropriate means, including but not limited to conservation restrictions, easements, leases, or any applicable federal program. The applicant, if not offered a choice of the above alternatives, is entitled to drain the wetlands involved.

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In addition, the owner ~~or owners~~ of lands underlying wetlands situated on privately owned lands may apply to the commissioner for a permit to drain the wetlands at any time ~~after the expiration of more than ten years following the after their original designation thereof.~~ Upon receipt of ~~On receiving~~ an application, the commissioner shall review the ~~current~~ status and conditions of the wetlands. If the commissioner finds that the current status or conditions ~~are such that make it appears~~ likely that the economic or other benefits to the owner ~~or owners which would result from drainage would exceed the public benefits of maintaining the wetlands,~~ the commissioner shall grant the application and issue a drainage permit. If the application is denied, ~~no additional application shall be made until the expiration of an additional~~ the owner may not apply again for another ten years.

Subd. 9. **RESTRICTIONS ON ACCESS TO WETLANDS.** ~~In order To~~ protect the public health or safety, local units of government may ~~establish by ordinance restrictions upon~~ restrict public access to ~~any~~ wetlands from city, county, or township roads ~~which~~ that abut wetlands.

Subd. 10. **LANDOWNER'S USE OF WETLANDS.** ~~Nothing in This chapter shall does not~~ prevent a landowner from ~~utilizing using~~ the bed of wetlands or public waters for pasture or cropland during periods of drought, ~~provided if~~ there is no construction of dikes, ditches, tile lines or buildings, and the agricultural use does not result in the drainage of the wetlands or public waters. This chapter ~~shall does~~ not prevent a landowner from filling ~~any a~~ wetland to accommodate wheeled booms on irrigation devices so long as the fill does not impede normal drainage.

Subd. 11. **STATE WETLANDS AND PUBLIC DRAINAGE SYSTEMS.** When the state owns wetlands on or adjacent to existing public drainage systems, the state shall ~~give consideration to~~ consider the ~~utilization use~~ of the wetlands as part of the drainage system. If the wetlands interfere with or prevent the authorized functioning of the public drainage system, the state shall provide for ~~any~~ necessary work to allow the proper use and maintenance of the drainage system while still preserving the wetlands.

Subd. 12. **COMMISSIONER'S DESIGNATION DOES NOT CHANGE RIGHTS OR TRESPASS LAW.** The designation of waters as "public waters" or "wetlands" ~~pursuant to~~ under this section ~~shall does~~ not grant ~~any the public~~ additional or greater right of access ~~to the public~~ to those waters; ~~nor is.~~ The commissioner is not required to acquire access to those waters under section 97A.141, ~~nor is any.~~ The right of ownership or usage of the beds underlying those waters is not diminished. Notwithstanding the designation of waters or lands as public waters or wetlands, ~~all provisions of any Minnesota law forbidding trespass upon private lands shall remain~~ remains in full force and effect.

#### 105.392 WATER BANK PROGRAM.

Subdivision 1. **POLICY.** The legislature finds that it is in the public interest to preserve the wetlands of the state and ~~thereby to~~ so conserve surface

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waters, ~~to~~ preserve wildlife habitat, ~~to~~ reduce runoff, ~~to~~ provide for floodwater retention, ~~to~~ reduce stream sedimentation, ~~to~~ contribute to improved subsurface moisture, ~~to~~ enhance the natural beauty of the landscape, and ~~to~~ promote comprehensive and total water management planning. Therefore, the commissioner of natural resources is ~~authorized to~~ may promulgate rules, ~~which shall that~~ include the procedures and payment rates designed to ~~effectuate the terms of~~ carry out this section. This program is intended to supplement and complement the federal water bank program ~~and~~. The payment rates established ~~shall be~~ must at least equal ~~to~~ the federal rates existing ~~at the time any when the~~ agreements are entered into.

Subd. 2. **TEN-YEAR WATERBANK AGREEMENTS.** The commissioner ~~shall have authority to~~ may enter into agreements with landowners for the conservation of wetlands. These agreements ~~shall must~~ be entered into for a period of ten years, with provision for renewal for additional ten-year periods. The commissioner may reexamine the payment rates at the beginning of ~~any~~ any a ten-year renewal period ~~and adjust them~~ in the light of ~~the then~~ current land and crop values ~~and make needed adjustments in rates for any renewal period.~~

Subd. 2a. WATERBANK PROGRAM CHARACTERISTICS. Wetlands A wetland is eligible for inclusion in the waterbank program ~~shall have all the~~ following characteristics as ~~determined by~~ if the commissioner determines that:

- (a) (1) it is type 3, 4, or 5 as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition);
- (b) (2) its drainage is lawful, feasible, and practical; and
- (c) (3) its drainage would provide high quality cropland and that is the projected land use.

Waters ~~which that~~ have the ~~foregoing those~~ characteristics but are less than ten acres in size in unincorporated areas or less than 2-1/2 acres in size in incorporated areas ~~shall may~~ also be eligible for inclusion included in the waterbank program, at the discretion of the commissioner.

Subd. 3. **CONTENTS OF WATERBANK AGREEMENT.** In the agreement between the commissioner and an owner, the owner shall agree:

- (1) to place in the program for the period of the agreement eligible wetland areas the owner designates, which areas may include wetlands covered by a federal or state government easement ~~which that~~ permits agricultural use, together with ~~such~~ adjacent areas as determined desirable by the commissioner;
- (2) not to drain, burn, fill, or otherwise destroy the wetland character of ~~such the~~ areas, nor to use ~~such areas~~ them for agricultural purposes, as determined by the commissioner;
- (3) to effectuate carry out the wetland conservation and development plan for the land in accordance with ~~the terms of~~ the agreement, unless any require-

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ment thereof of the agreement or plan is waived or ~~modified~~ changed by the commissioner;

(4) to forfeit ~~all~~ rights to further payments or grants under the agreement and to refund to the state ~~all~~ payments or grants received ~~thereunder~~ under it upon violating the agreement at any stage during the time the owner has control of the land subject to the agreement if the commissioner determines that the violation is ~~of such a nature as to warrant~~ warrants termination of the agreement, or to make refunds or accept ~~such~~ payment adjustments as the commissioner ~~may deem~~ finds appropriate if the commissioner determines that the violation by the owner does not warrant termination of the agreement;

(5) upon transfer of right and interest in the lands subject to the agreement during the agreement period, to forfeit ~~all~~ rights to further payments or grants under the agreement and refund to the state ~~all~~ payments or grants received ~~thereunder~~ under it during the year of the transfer unless the transferee of any ~~such~~ land agrees with the commissioner to assume ~~all~~ the obligations of the agreement;

(6) not to adopt any practice specified by the commissioner in the agreement as a practice ~~which~~ that would tend to defeat the purposes of the agreement; and

(7) to additional provisions ~~which~~ that the commissioner determines are desirable and includes in the agreement to ~~effectuate~~ carry out the purposes of the program or to facilitate its administration.

Subd. 4. **PAYMENT AND HELP TO OWNER.** In return for the agreement of the owner, the commissioner shall:

(1) make an annual payment to the owner for the period of the agreement at the rate as the commissioner determines to be fair and reasonable in consideration of the obligations undertaken by the owner; and

(2) provide advice on conservation and development practices on the wetlands and adjacent areas for the purposes of this section as the commissioner determines to be appropriate.

In making the determination, the commissioner shall consider, among other things, the rate of compensation necessary to encourage owners of wetlands to participate in the waterbank program.

Subd. 5. **CHANGES IN OWNERSHIP.** ~~Any~~ An agreement may be renewed or extended at the end of the agreement period for an additional ~~period~~ of ten years by mutual agreement of the commissioner and the owner, subject to any rate redetermination by the commissioner. ~~If,~~ during the agreement period, the owner sells or otherwise disposes of the ownership or right of occupancy of the land, the new owner may:

(1) continue ~~such~~ the agreement under the same terms or conditions; ~~or;~~

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(2) enter into a new agreement in accordance with ~~the provisions of this section, including the provisions for renewal and adjustment of payment rates;~~  
or

(3) may choose not to participate in the program; ~~except.~~

However, if the owner or occupant chooses not to participate, any water designated as wetlands ~~shall~~ must not be drained.

Subd. 6. **ENDING OR CHANGING AGREEMENT.** The commissioner may terminate any agreement by mutual agreement with the owner if the commissioner determines that the termination would be in the public interest, and may agree to any modification of agreements the commissioner ~~may determine to be~~ determines desirable to carry out the purposes of the program or facilitate its administration.

#### 105.40 **DIRECTOR; QUALIFICATIONS, DUTIES.**

Subdivision 1. **REGISTERED ENGINEER.** The director of the division of waters, soils and minerals of the department of natural resources ~~shall~~ must be a registered professional engineer, skilled in hydraulics. Under the direction of the commissioner, the director shall make the surveys and engineering investigations required by sections 105.37 to 105.55 and perform the following duties.

Subd. 2. **DITCH INFORMATION; DIRECTOR'S REPORT.** A complete copy of all preliminary and final engineers' maps, plans and reports on all public ditches hereafter ~~initiated in the state shall~~ must be filed in the office of the director by the respective county auditors or court administrators of district court; ~~and.~~ The director shall report ~~thereon~~ on them to the county boards of commissioners or judges of the district court, as required by the county and judicial ditch laws of this state.

Subd. 3. **ADVICE ABOUT DITCHES.** Upon request by any county board or judge of the district court or engineer on ~~any~~ a public ditch, the director shall advise them ~~relative to any on~~ engineering questions or problems ~~arising~~ in connection with ~~any~~ a public ditch.

Subd. 4. **FIELD SURVEYS, INVESTIGATIONS.** When ~~any~~ a field survey or investigation of any public ditch is ~~deemed found~~ necessary by the director or is requested in writing by the county board or district judge, the director may make ~~the same~~ it. If the field survey or investigation ~~be~~ is made at the request of the board or judge, ~~the expense thereof shall its cost~~ must be reported to the board or court and paid by the county as are other ditch expenses.

Subd. 5. **INFORMATION, PUBLISHING.** The director ~~is authorized to~~ may prepare and publish run-off data and information ~~as to~~ about the capacity of tile drains and open ditches ~~within in~~ the state together with forms of specifications for drain tile, open ditches, and ditch construction and standard procedural forms for public ditch proceedings; ~~and to furnish the same.~~ The director may

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furnish the information to engineers and public officials for their advice and information.

Subd. 6. **DRAIN TILE MANUFACTURING, STUDIES.** The director ~~is authorized to~~ may investigate the methods ~~employed~~ used in the manufacture of drain tile and the causes of ~~any its failures thereof,~~ and ~~to~~ may conduct research and experimentation ~~for the purpose of improving to improve~~ the quality of drain tile. The director may make inspections and tests of manufacturing processes and materials used and the resultant product in any manufacturing plant in the state where drain tile is made and sold to the general public. The director, or an authorized representative of the director, shall have free access to ~~all such~~ the manufacturing plants for ~~the purpose of such~~ inspections and tests, ~~and.~~ The results ~~thereof shall~~ of inspections and tests must be made public for the information of officials concerned in public ditch proceedings, tile manufacturers, and others interested in the use of drain tile.

Subd. 7. **WATER BOARD REQUESTS; HEARINGS APPEARANCES AT HEARINGS.** The director shall perform ~~such~~ engineering work ~~as may be~~ requested by the state water policy board, and shall appear in all hearings and proceedings before the state water policy board affecting waters within the state.

Subd. 8. **COOPERATION, RECOMMENDATIONS TO AGENCIES.** The director shall cooperate with ~~all~~ agencies and departments of the state and federal government relating to projects ~~or works of improvement~~ affecting waters within the state and shall make recommendations to the agencies involved and to the governor ~~as to~~ about the desirability, feasibility, and practicability of ~~such~~ the proposed projects ~~and works of improvement.~~

Subd. 9. **PURCHASING.** The director ~~is authorized to~~ may purchase ~~such~~ technical and scientific equipment ~~as may be necessary to perform~~ needed for the functions and ~~discharge~~ the duties of the director's office.

Subd. 10. **CONTRACT APPROVALS.** No contract or agreement shall be made by any department or agency of the state or any municipality with the United States or any agency or department ~~thereof of it,~~ for the collection of basic data pertaining to surface or ground waters of the state without first securing the written approval of the director.

Subd. 11. **STANDARDS.** The director ~~is authorized to~~ formulate may make rules ~~so as~~ to standardize the forms and sizes of maps, plats, drawings and specifications in public drainage proceedings and proceedings and undertakings pertaining to public waters of the state.

Subd. 12. **APPROPRIATIONS AVAILABLE.** ~~All moneys~~ Money appropriated to the commissioner of natural resources ~~of the department of natural resources for the use of~~ the division of waters, soils, and minerals or ~~the its~~ director ~~thereof,~~ to conduct hydrologic studies, ~~shall remain~~ remains available until ~~expended~~ spent.

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Subd. 13. **APPEARANCES.** The director may appear for the state in any matter or proceeding affecting waters within the state, including boundary waters, ~~for the purpose of furnishing to give~~ hydrologic and hydraulic engineering advice and information in connection ~~therewith~~ with the proceeding.

Subd. 14. **AGREEMENTS.** The director, with the approval of the commissioner, may make cooperative agreements with and cooperate with any person, corporation, or governmental authority ~~for the purpose of effectuating the provisions of to carry out~~ this section.

#### 105.403 WATER AND RELATED LAND RESOURCES PLANS.

The commissioner of natural resources, in cooperation with other state and federal agencies, regional development commissions, the metropolitan council, local governmental units, and citizens, shall prepare a statewide framework and assessment water and related land resources plan for presentation to the legislature by November 15, 1975, for its review and approval or disapproval. This plan ~~shall~~ must relate each of the programs of the department of natural resources for specific aspects of water management to the others. The statewide plan ~~shall~~ must include but is not ~~be~~ limited to provisions for the following:

(a) (1) regulation of improvements and land development by abutting land-owners of the beds, banks, and shores of lakes, streams, watercourses, and marshes by permit or otherwise ~~in order~~ to preserve them for beneficial use;

(b) (2) regulation of construction of improvements on and prevention of encroachments in the flood plains of the rivers, streams, lakes, and marshes of the state;

(c) (3) reclamation or filling of wet and overflowed lands;

(d) (4) repair, improvement, relocation, modification or consolidation in whole or in part of previously established public drainage systems within the state;

(e) (5) preservation of wetland areas;

(f) (6) management of game and fish resources as related to water resources;

(g) (7) control of water weeds;

(h) (8) control or alleviation of damages by flood waters;

(i) (9) alteration of stream channels for conveyance of surface waters, navigation, and any other public purposes;

(j) (10) diversion or changing of watercourses in whole or in part;

(k) (11) regulation of the flow of streams and conservation of ~~the~~ their waters ~~thereof~~;

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(~~h~~) (12) regulation of lake water levels;

(~~m~~) (13) maintenance of water supply for municipal, domestic, industrial, recreational, agricultural, aesthetic, wildlife, fishery, or other public use;

(~~n~~) (14) sanitation and public health and regulation of uses of streams, ditches, or watercourses ~~for the purpose of disposing to dispose~~ of waste and ~~maintaining maintain~~ water quality;

(~~o~~) (15) preventive or remedial measures to control or alleviate land and soil erosion and siltation of watercourses or bodies of water ~~affected thereby~~; and

(~~p~~) (16) regulation of uses of water surfaces.

#### 105.405 WATER SUPPLY MANAGEMENT.

Subdivision 1. **ASSURANCE OF SUPPLY.** The commissioner shall develop and manage water resources to assure a supply adequate to meet long-range seasonal requirements for domestic, municipal, industrial, agricultural, fish and wildlife, recreational, power, navigation, and quality control purposes from surface or ground water sources, or from a combination of these.

Subd. 2. **STATE NEEDS.** No permit authorized by sections 105.37 to 105.55 nor any plan for which the commissioner's approval is required or permitted, involving a diversion of any waters of the state, surface or underground, to a place outside of this state shall be granted or approved until after a ~~determination~~ by the commissioner has determined that the water remaining in this state will be adequate to meet the state's water resources needs during the specified life of the diversion project and after approval by the legislature.

#### 105.41 APPROPRIATION AND USE OF WATERS.

Subdivision 1. **COMMISSIONER'S PERMISSION.** It ~~shall be~~ is unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without the written permit of the commissioner. ~~Nothing in This section shall be construed to~~ does not apply to the use of water for domestic purposes serving less than 25 persons. The commissioner shall ~~establish~~ set up a statewide training program to provide training in the conduct of pumping tests and data acquisition programs.

Subd. 1a. **WATER ALLOCATION RULES, PRIORITIES.** The commissioner shall submit to the legislature by January 1, 1975, for its approval, proposed rules governing the allocation of waters among potential water users. These rules ~~shall~~ must be based on the following priorities for appropriation and use of water:

First ~~priority~~: domestic water supply, excluding industrial and commercial uses of municipal water supply.

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Second ~~priority~~: any use of water that involves consumption of less than 10,000 gallons of water ~~per a~~ day. ~~For purposes of In~~ this section "consumption" ~~shall mean~~ means water withdrawn from a supply ~~which~~ that is lost for immediate further use in the area.

Third ~~priority~~: agricultural irrigation, involving consumption in excess of 10,000 gallons ~~per a~~ day, and processing of agricultural products.

Fourth ~~priority~~: power production, involving consumption in excess of 10,000 gallons ~~per a~~ day.

Fifth ~~priority~~: other uses, involving consumption in excess of 10,000 gallons ~~per a~~ day.

Appropriation and use of surface water from streams during periods of flood flows and high water levels ~~shall~~ must be encouraged subject to consideration of the purposes for use, quantities to be used, and the number of persons appropriating water.

Appropriation and use of surface water from lakes of less than 500 acres in surface area ~~shall~~ must be discouraged.

Diversions of water from the state for use in other states or regions of the United States or Canada ~~shall~~ must be discouraged; ~~subject to the jurisdiction of the United States government.~~

No permit ~~shall~~ may be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans, ~~provided that if~~ regional and local plans are consistent with statewide plans. The commissioner ~~shall~~ must not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued ~~pursuant to~~ under section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers any domestic water supply.

Subd. 1b. **USE LESS THAN MINIMUM.** No permit ~~shall be~~ is required for the appropriation and use of less than a minimum amount to be established by the commissioner by rule. Permits for more than the minimum amount but less than an intermediate amount to be specified by the commissioner by rule ~~shall~~ must be processed and approved at the municipal, county, or regional level based on rules to be established by the commissioner by January 1, 1977. The rules ~~shall~~ must include provisions for reporting to the commissioner the amounts of water appropriated ~~pursuant to~~ under local permits.

Subd. 2. **INSTALLATIONS FOR WATER USE, PERMITS AND REPORTS.** It ~~shall be~~ is unlawful for the owner of any installation for appropriating or using surface or underground water to increase the pumping capacity or make any major ~~modification~~ change in ~~such~~ the installation without first applying in writing for, and obtaining, the written permit of the commissioner ~~previously obtained upon written application therefor to the commissioner.~~

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The owner or person in charge of every an installation for appropriating or using surface or underground water, whether or not under permit, shall file a statement with the commissioner. The statement shall be filed at such the time as the commissioner determines necessary to for the statewide water information system; a. The statement of must identify the installation's location thereof, its capacity, the purpose or purposes for which it is used, and such additional information that the commissioner may require; The statement shall be provided on forms provided by the commissioner.

Subd. 3. **COMMISSIONER'S EXAMINATIONS.** The commissioner may examine any installation which that appropriates or uses surface or underground water; and. The owner of such the installation shall supply such information concerning such installation it as the commissioner may require requires.

Subd. 4. **MEASURING AND RECORDING QUANTITIES USED.** It shall be is unlawful for the state, any a person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without measuring and keeping a record of the quantity of water used or appropriated as herein provided in this section. Each installation for appropriating or using water shall must be equipped with a device or employ a method to measure the quantity of water appropriated with reasonable accuracy. The commissioner's determination of the method to be used for measuring water quantity shall must be based upon on the quantity of water appropriated or used, the source of water, the method of appropriating or using water, and any other facts supplied to the commissioner.

Subd. 5. **RECORDS REQUIRED.** Records of the amount of water appropriated or used shall must be recorded kept for each such installation and such. The readings and the total amount of water appropriated shall must be reported annually to the commissioner of natural resources on or before February 15 of the following year upon forms to be supplied by the commissioner.

The records shall must be submitted with an annual water appropriation processing fee in the amount established in accordance with the following schedule of fees for each water appropriation permit in force at any time during the year: (a) (1) irrigation permits, \$15 for the first permitted 160 acres or portion thereof part of 160 acres, and \$25 for each additional permitted 160 acres or portion thereof part of 160 acres; (b) (2) for nonirrigation permits, \$5 for each ten million gallons or portion thereof of that amount permitted each year. However, in no case shall the fee must not exceed a total of \$500 per permit. The fee is payable regardless of the amount of water appropriated during the year. Failure to pay the fee is sufficient cause for revoking a permit. No fee may be imposed on any state agency, as defined in section 16B.01, or federal governmental agency holding a water appropriation permit.

Subd. 6. **TRANSFER OF PERMIT.** Any appropriation or use permit may be transferred if the permittee conveys the real property where the source of

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water is located to the ~~subsequent~~ next owner of the real property. The ~~subsequent~~ new owner shall notify the commissioner of natural resources immediately after an appropriation or use permit is transferred ~~pursuant to~~ under this section.

#### 105.415 RULES GOVERNING PERMITS.

Notwithstanding the provision in section 105.41, subdivision 1a, ~~stating that the commissioner of natural resources shall submit to the legislature by January 1, 1975, for its approval proposed rules governing the allocation of waters among potential water users; and notwithstanding the provision in section 105.42, subdivision 1a, stating that the commissioner shall recommend by January 15, 1975, to the legislature a comprehensive law containing standards and criteria governing the issuance and denial of permits under the section;~~ the commissioner shall ~~prior to,~~ before January 30, 1978, adopt rules containing standards and criteria for the issuance and denial of the permits required by sections 105.41 and 105.42.

#### 105.416 IRRIGATION FROM GROUNDWATER.

Subdivision 1. **PERMIT.** Permit applications required by section 105.41, for appropriation of groundwater for ~~purposes of~~ agricultural irrigation shall must be processed as either class A or class B applications. Class A applications are for wells located in areas for which the commissioner of natural resources has adequate groundwater availability data. Class B are those for ~~all~~ other areas. The commissioner shall evaluate available groundwater data, determine its adequacy, and designate areas A and B, statewide. The commissioner shall solicit, receive, and evaluate groundwater data from soil and water conservation districts, and where appropriate revise the area A and B designations. The commissioner of natural resources shall file with the secretary of state a commissioner's order defining these areas by county and township. Additional areas may be added by a ~~subsequent~~ later order of the commissioner. Class A and B applications shall must be processed in the order received.

Subd. 2. **CLASS B PERMITS; INFORMATION REQUIREMENTS.** Class B applications are not complete until the applicant has supplied the following data:

(a) (1) A summary of the anticipated well depth and subsurface geologic formation expected to be penetrated by the well. For glacial drift aquifers, this data shall must include the logs of test holes drilled ~~for the purpose of locating~~ to locate the site of the proposed production well;

(b) (2) The formation and aquifer expected to serve as the groundwater source;

(c) (3) The maximum daily, seasonal and annual pumpage expected;

(d) (4) The anticipated groundwater quality in terms of the measures of quality commonly specified for the proposed water use;

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(e) ~~(5)~~ The results of a pumping test supervised by the commissioner or a designee of the commissioner, conducted at a rate not to exceed the proposed pumping rate for a period not to exceed more than 72 continuous hours for wells under water table conditions and not to exceed more than 24 continuous hours for wells under artesian conditions. Before, during, and after the pumping test the commissioner shall require monitoring of water levels in one observation well located at ~~such a~~ distance from the pumping well ~~which that~~ the commissioner has reason to believe may be affected by the new appropriation. The permit applicant ~~shall be~~ is responsible for ~~all~~ costs of the pumping tests and monitoring in the one observation well. The applicant ~~shall be~~ is responsible for the construction of this one observation well if suitable existing wells cannot be located for this purpose. If the commissioner believes that more than one observation well is needed the commissioner shall instruct the applicant to install and monitor additional more observation wells. The commissioner shall reimburse the applicant for these added costs; ~~and.~~

(f) ~~Upon determination of (6)~~ When the area of influence of the proposed well is determined, the location of existing wells within the area of influence which that were reported ~~pursuant~~ according to section 156A.07, together with readily available facts on depths, geologic formations, pumping and nonpumping water levels and details of well construction as related to the ~~commissioner of health~~ "water well construction code".

The commissioner may in any specific application waive ~~any of the~~ requirements of clauses (d) (4) to (f) (6) when the necessary data is already available.

Subd. 3. **ISSUANCE OF NEW PERMITS; CONDITIONS.** The commissioner shall issue permits for irrigation appropriation from groundwater only where the commissioner determines that:

(1) proposed soil and water conservation measures are adequate based on recommendations of the soil and water conservation districts; ~~and that~~

(2) water supply is available for the proposed use without reducing water levels beyond the reach of vicinity wells constructed in accordance with the water well construction code; ~~contained in the rules of the Minnesota state commissioner of health~~ Rules, parts 4725.1900 to 4725.6500.

#### 105.417 WATER APPROPRIATIONS FROM SURFACE SOURCES.

Subdivision 1. **WAIVER.** The commissioner may waive any limitation or requirement in subdivisions 2 to 5 for just cause.

Subd. 2. **NATURAL AND ALTERED NATURAL WATERCOURSES.** Where data ~~are~~ is available, permits to appropriate water from natural and altered natural watercourses ~~shall~~ must be limited so that consumptive appropriations are not made from the watercourses during periods of specified low flows ~~in order.~~ The purpose of the limits is to safeguard water availability for instream uses and for downstream higher priority users located ~~in reasonable proximity to~~ reasonably near the site of appropriation.

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Subd. 3. **WATERBASINS.** (a) Permits to appropriate water ~~for any purpose~~ from waterbasins ~~shall~~ must be limited so that the collective annual withdrawals do not exceed a total volume of water amounting to one-half acre-foot per acre of waterbasin based on Minnesota department of conservation bulletin No. 25, "An Inventory of Minnesota Lakes."

(b) As a condition to ~~any a~~ surface water appropriation permit, the commissioner of natural resources shall ~~establish~~ set an elevation for the subject waterbasin, below which no appropriation ~~shall be~~ is allowed. During the determination of the elevation, ~~which for the purposes of this section shall be known as~~ called the "protection elevation," the commissioner shall take into account the elevation of important aquatic vegetation characteristics related to fish and wildlife habitat, existing uses of the waterbasin by the public and riparian land owners, the total volume within the waterbasin and the slope of the littoral zone.

(c) As part of ~~any an~~ application for appropriation of water ~~for any purpose~~ from a waterbasin of less than 500 acres in surface area, the applicant shall ~~obtain~~ get a signed statement ~~from~~ containing as many signatures as the applicant can obtain of landowners with land riparian to the subject waterbasin ~~stating~~. It must state their support to the proposed appropriation ~~as the applicant is able to obtain~~, and it ~~shall indicate~~ must show the number of landowners whose ~~signature~~ signatures the applicant is ~~unable to~~ could not obtain.

Subd. 4. **TROUT STREAMS.** Permits issued after June 3, 1977, to appropriate water ~~for any purpose~~ from streams designated trout streams by the commissioner's orders ~~pursuant to~~ under section 97C.021, ~~shall~~ must be limited to temporary appropriations.

Subd. 5. **CONTINGENCY PLANNING.** No application for use of surface waters of the state ~~for any purpose~~ is complete until the applicant submits, as part of the application, a contingency plan ~~which that~~ describes the alternatives the applicant will ~~utilize~~ use if further appropriation is restricted due to the flow of the stream or the level of a waterbasin. No surface water appropriation ~~for any purpose~~ shall be allowed unless the contingency plan is feasible or the permittee agrees to withstand the results of no appropriation.

#### 105.418 CONSERVATION OF PUBLIC WATER SUPPLIES.

During periods of critical water deficiency as determined by the governor and declared by order of the governor, public water supply authorities appropriating water shall adopt and enforce restrictions consistent with rules adopted by the commissioner of natural resources within their areas of jurisdiction ~~to restrict~~. The restrictions must limit lawn sprinkling, car washing, golf course and park irrigation, and other nonessential uses; ~~together with and have~~ appropriate penalties for failure to comply with the restrictions. The commissioner may adopt emergency rules ~~pursuant according to section 15.0412, subdivision 5 sections 14.29 to 14.36~~ relating to matters covered by this section during the year 1977. Disregard of critical water deficiency orders, even though total appro-

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priation remains less than that permitted, ~~shall be adequate~~ is grounds for immediate modification of any public water supply authority's appropriator's permit.

#### 105.42 PERMITS; WORK IN PUBLIC WATERS.

Subdivision 1. **CONSTRUCTION.** It ~~shall be~~ is unlawful for the state, ~~any~~ a person, partnership, association, private or public corporation, county, municipality or other political subdivision of the state, to construct, reconstruct, remove, abandon, transfer ownership of, or make any change in any reservoir, dam or waterway obstruction on any public water; or in any manner, to change or diminish the course, current, or cross-section of any public waters, wholly or partly within the state, by any means, including but not limited to, filling, excavating, or placing of ~~any~~ materials in or on the beds of public waters, without first getting a written permit from the commissioner ~~previously obtained~~. Application for ~~such a~~ permit ~~shall~~ must be in writing to the commissioner on forms prescribed by the commissioner. No permit shall be required for work in altered natural watercourses ~~which~~ that are part of drainage systems established ~~pursuant to~~ under sections 106A.005 to 106A.811 and chapter 112 when the work in the waters is undertaken ~~pursuant to~~ under those chapters.

This section does not apply to any public drainage system ~~lawfully~~ established under the ~~provisions of~~ sections 106A.005 to 106A.811 ~~which~~ that does not substantially affect ~~any~~ public waters.

The commissioner, subject to the approval of the county board, ~~shall have power to~~ may grant, and ~~to~~ prescribe terms and conditions for granting, permits to establish, construct, maintain, and control wharfs, docks, piers, levees, breakwaters, basins, canals and hangars in or adjacent to public waters of the state except within the corporate limits of cities.

Subd. 1a. **STANDARDS AND CRITERIA.** By January 15, 1975, the commissioner shall recommend ~~by January 15, 1975,~~ to the legislature a comprehensive law containing standards and criteria governing for the issuance and denial of permits under this section. These standards and criteria ~~shall~~ must relate to the diversion of water from other uses and changes in the level of public waters to ~~insure~~ ensure that projects will be satisfactorily completed and maintained ~~in a satisfactory manner~~. The commissioner may, by rule, identify classes of activities in waterbasins and classes of watercourses on which the commissioner may delegate permit authority to the appropriate county or city under ~~such~~ guidelines ~~as~~ the commissioner may provide based on agreement with the involved county or city and in compliance with ~~the requirements of~~ section 105.45. After November 15, 1975, a permit shall be granted under this section only when the project conforms to state, regional, and local water and related land resources management plans, and only when it will involve a minimum of encroachment, change, or damage to the environment, particularly the ecology of the waterway. ~~In these instances where~~ When a major change in the resource is justified, permits ~~shall~~ must include provisions to compensate for the detrimental aspects of the change.

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In unincorporated areas and, after January 1, 1976, in incorporated areas, permits that will involve excavation in the beds of public waters shall be granted only where the area in which the excavation will take place is covered by a shoreland conservation ordinance approved by the commissioner and only where the work to be authorized is consistent with the shoreland conservation ordinance. Each permit that will involve excavation in the public waters ~~shall~~ must include provisions governing the deposition of spoil materials.

No A permit affecting flood waters shall be granted ~~except where~~ only if:

(1) the area covered by the permit is governed by a flood plain management ordinance approved by the commissioner; and

(2) the conduct authorized by the permit is consistent with the flood plain management ordinance, ~~provided that~~ if the commissioner has determined that ~~sufficient~~ enough information is available for the adoption of a flood plain ordinance.

No A permit involving the control of flood waters by structural means, such as dams, dikes, levees, and channel improvements, shall be granted ~~until~~ only after the commissioner has ~~given due consideration to~~ considered all other flood damage reduction alternatives. In developing a policy ~~with regard to~~ on placing emergency levees along the banks of public waters under flood emergency conditions, the commissioner shall consult and cooperate with the office of emergency services.

No permit that will ~~involve a change in~~ the level of public waters shall be granted unless the shoreland adjacent to the waters to be changed is governed by a shoreland conservation ordinance approved by the commissioner and the change in water level is consistent with that shoreland conservation ordinance. Standards and procedures for use in deciding the level of a particular lake must ~~insure~~ ensure that the rights of all persons are protected when lake levels are changed and ~~shall include provisions~~ must provide for ~~providing~~: (1) technical advice to ~~all~~ persons involved; ~~for~~ (2) establishing alternatives to ~~assist~~ help local agencies ~~in resolving~~ resolve water level conflicts; and (3) mechanics necessary ~~to provide~~ for local resolution of water problems within the state guidelines.

Subd. 2. **EMERGENCY REPAIRS.** ~~Nothing in~~ This section ~~shall~~ does not prevent the owner of ~~any a~~ dam, reservoir, control structure, or waterway obstruction from ~~instituting~~ making repairs ~~which that~~ are immediately necessary in case of emergency. However, the owner shall notify the commissioner at once of the emergency and of the emergency repairs being ~~instituted~~ made and, as soon as practicable, shall apply for a permit for the emergency repairs and any necessary permanent repairs. ~~Nothing in~~ This section ~~shall~~ does not apply to routine maintenance; not affecting the safety of the structures.

In ~~case of~~ an emergency where the commissioner declares that repairs or remedial action is immediately necessary to safeguard life and property, the repairs, remedial action, or both, ~~shall~~ must be started immediately by the owner.

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Subd. 3. **OPERATION.** The owner of ~~any~~ a dam, reservoir, control structure, or waterway obstruction constructed before a permit was required by law shall maintain and operate ~~all such~~ the dams, reservoirs, control structures, and waterway obstructions in a manner approved by the commissioner and in accordance with ~~any rules promulgated~~ adopted by the commissioner ~~in the manner prescribed by~~ under chapter 14.

Subd. 4. **LANDLOCKED LAKES; PREVENTION OF FLOODING.** Where prescribed in an approved storm water management plan under section 473.879, the commissioner shall issue permits to establish control elevations for landlocked lakes up to three feet below the ordinary high water level for the lake, if the commissioner finds that ~~the~~ control is necessary to prevent flooding of homesteads and that no other reasonable or cost-effective alternative is available.

#### 105.43 APPLICATION FOR ESTABLISHMENT OF LAKE LEVELS.

Application for authority to establish and maintain levels on any public water and applications to establish the natural ordinary high water level of any body of public water may be made to the commissioner by any public body or authority or by a majority of the riparian owners thereon; or, for the purpose of conserving or utilizing the water resources of the state, the commissioner may initiate proceedings therefor.

#### 105.44 PROCEDURE UPON APPLICATION.

Subdivision 1. **PERMIT.** Each application for a permit required by sections 105.37 to 105.55 ~~shall~~ must be accompanied by maps, plans, and specifications describing the proposed appropriation and use of waters, or the changes, additions, repairs or abandonment proposed to be made, or the public water affected, and ~~such~~ other data ~~as~~ the commissioner may require. This data may include but not be limited to a statement of the effect the actions proposed in the permit application will have on the environment, such as:

(a) (1) anticipated changes in water and related land resources ~~which are anticipated;~~

(b) (2) unavoidable but anticipated detrimental effects; and

(c) (3) alternatives to the actions proposed in the permit.

If the proposed activity, for which the permit is requested, is within a city, or is within or affects a watershed district or a soil and water conservation district, a copy of the application together with maps, plans, and specifications ~~shall~~ must be served on the secretary of the board of managers of the district and the secretary of the board of supervisors of the soil and water conservation district and on the mayor of the city. Proof of ~~such~~ service ~~shall~~ must be included with the application and filed with the commissioner.

Subd. 1a. **EXCAVATION CHARGES.** The commissioner shall impose

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charges for the excavation of minerals from the beds of public waters, as provided in chapter 93.

Subd. 2. **AUTHORITY.** The commissioner is ~~authorized to~~ may receive applications for permits and ~~to grant the same~~ them, with or without conditions, or ~~refuse the same as hereinafter set forth~~ them. ~~Provided, that~~ If the proposed activity for which the permit is requested is within a city, or is within or affects a watershed district or a soil and water conservation district, the commissioner ~~may secure~~ get the written recommendation of the managers of ~~said~~ the district and the board of supervisors of the soil and water conservation district or the mayor of the city before granting or refusing the permit. The managers or supervisors or mayors shall file their recommendation within 30 days after receipt of a copy of the application for permit.

Subd. 3. **WAIVER OF HEARING.** The commissioner may waive hearing on any application and order the ~~granting or refusal of such~~ application granted or refused. In ~~such~~ that case, if any application is granted, with or without conditions, or is refused, the applicant, the managers of the watershed district, the board of supervisors of the soil and water conservation district, or the mayor of the city may within 30 days after mailed notice ~~thereof~~ of the order file with the commissioner a demand for hearing on the application together with the bond required by subdivision 6. The application ~~shall thereupon~~ must then be fully heard, on notice ~~as hereinafter provided~~ under subdivision 5, and determined ~~the same~~ as though no previous order had been made. Any hearing ~~pursuant to~~ under this section ~~shall~~ must be conducted as a contested case in accordance with chapter 14. If the commissioner ~~elects to~~ waives a hearing, and if no demand for hearing ~~be~~ is made, or if a hearing is demanded but no bond is filed as required by subdivision 6, the order ~~shall become~~ becomes final at the ~~expiration~~ end of 30 days after mailed notice ~~thereof~~ of the order to the applicant, the managers of the watershed district, the board of supervisors of the soil and water conservation district, or the mayor of the city and no appeal of the order may be taken ~~to the district court~~.

Subd. 4. **TIME.** The commissioner shall act ~~upon~~ on all applications, except for appropriations for irrigation, ~~pursuant~~ according to subdivision 8, within 30 days after the application and all required data ~~is~~ are filed in the commissioner's office. The commissioner shall either waiving ~~waive~~ the hearing and making ~~make~~ an order thereon on the application or directing ~~direct~~ the hearing thereon on it.

Subd. 5. **NOTICE.** The notice of hearing on ~~any~~ an application ~~shall recite~~ must state the date, place, and time fixed by the commissioner for the public hearing ~~thereon and shall~~. It must also show the waters affected, the levels sought to be established or ~~any~~ control structures proposed. The notice ~~shall~~ must 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. It must be published once each a week for two successive weeks ~~prior to~~ before the day of hearing in a legal newspaper

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published in the county in which a any part ~~of all~~ of the affected waters are is located. Notice ~~shall~~ must also be mailed by the commissioner to the county auditor and the mayor of any municipality or the watershed district and the soil and water conservation district affected. The commissioner shall also fulfill any notice requirements prescribed by sections 14.57 to 14.59 and rules of the chief administrative law judge.

Subd. 6. **HEARING COSTS.** (a) ~~Except where a public hearing is demanded by a public authority which is not the applicant as stated in paragraph (b),~~ the applicant shall pay the following, if after the hearing the commissioner's action, taken ~~pursuant to~~ under subdivision 2, is affirmed without material modification: (1) costs of the stenographic record and transcript, (2) rental ~~expenses~~ costs, if any, of the place of hearing, (3) costs of publication of orders made by the commissioner. ~~However, in no event shall the applicant shall not~~ pay more than \$750.

(b) Where the public hearing is demanded by a public authority ~~which that~~ is not the applicant, the public authority making the demand shall pay the costs ~~and expenses~~ listed ~~above~~ in paragraph (a) if the commissioner's action is affirmed without material modification.

(c) 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~~ must be conditioned for the payment of ~~all costs and expenses~~ of the public hearing if the commissioner's action taken ~~pursuant to~~ under subdivision 2 is affirmed without material modification. No bond or security is required of a public authority ~~which that~~ demands a public hearing. The commissioner may waive the requirement for a bond or other security. In ~~all~~ other instances, costs of the hearing ~~shall~~ must be borne ~~in the manner as~~ as prescribed by chapter 14 and the chief administrative law judge.

Subd. 7. **WITNESSES; CONTEMPT.** The commissioner may subpoena and compel the attendance of witnesses and the production of ~~all~~ books and documents ~~that are~~ that are material to the purposes of the hearing. Disobedience of ~~every such a~~ subpoena ~~shall be is~~ punishable as a contempt ~~in like manner in the same way~~ as a contempt of the district court on complaint of the commissioner before the district court of the county where ~~such the~~ disobedience ~~or refusal~~ occurred.

Subd. 8. **PERMIT TO IRRIGATE AGRICULTURAL LAND.** When ~~an application a person applies~~ for permit to irrigate agricultural land from public waters ~~is made~~, the soil and water conservation district may make recommendations to the commissioner regarding the disposition of the application and its compatibility to a comprehensive soil and water conservation plan approved ~~pursuant to~~ under section 40.07, subdivision 9. The recommendations must be made within 30 days of the receipt of the application. Within 30 days of receipt of the application the commissioner may require additional specific information

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from the applicant. ~~Upon receipt of all additional specific information required of the applicant~~ On receiving all requested information, the commissioner shall have ~~has~~ an additional 60 days to review ~~that information~~ it, consider the soil and water conservation recommendations, and decide whether to grant or deny the permit; ~~provided that~~. If the commissioner orders a hearing, then the ~~time within which the commissioner must grant or deny the application~~ shall must be granted or denied within ten days after receipt of the report of the hearing officer. In the case of an application for permit to irrigate agricultural land, failure of the commissioner to act ~~thereon on it~~ within the specified time period, ~~shall be deemed is~~ an order granting the application. This order ~~shall be deemed is~~ considered granted ten days after the applicant has given written notice to the commissioner stating an intention to proceed with the appropriation.

Subd. 9. **LIMITATIONS ON PERMITS.** Except as otherwise expressly provided by law, ~~every a~~ permit issued by the commissioner of natural resources under the provisions of Minnesota Statutes 1949, sections 105.37 to 105.55; ~~or any amendment thereof~~; shall be is subject to the following:

(1) cancellation by the commissioner at any time if ~~deemed necessary for any cause for the protection of~~ to protect the public interests;

(2) ~~such~~ further conditions ~~respecting on~~ the term of the permit or ~~the its~~ cancellation thereof as the commissioner may prescribe and insert in the permit;

(3) All applicable provisions of law existing at the time of ~~before or after~~ the issuance of the permit or thereafter enacted by the legislature;

(4) Any Applications granted under subdivision 8, or ~~deemed considered~~ granted under the provisions thereof, shall likewise be it are also subject to the foregoing provisions of this subdivision, and shall be are subject also to cancellation by the commissioner upon the recommendation of the supervisors of the soil and water conservation district ~~wherein where~~ the land to be irrigated is located.

Subd. 10. **PERMIT FEES.** Each application for a permit authorized by sections 105.37 to 105.64, and each request to amend or transfer an existing permit, shall must be accompanied by a permit application fee ~~in the amount of~~ \$30 to defray the costs of receiving, recording, and processing the application or request to amend or transfer. The commissioner may charge an additional permit application fee in excess of the \$30 fee ~~specified above~~; but not to exceed over \$250 for each application, in accordance with a schedule of fees ~~adopted by rules promulgated in the manner provided by~~ under section 16A.128.

The commissioner may charge an additional field inspection fee for:

(1) projects requiring a mandatory environmental assessment ~~pursuant to~~ under chapter 116D;

(2) projects undertaken without a permit or application as required by sections 105.37 to 105.64; and

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(3) projects undertaken in excess of limitations established in an issued permit; ~~the commissioner may charge an additional field inspection fee of.~~ The fee must not be less than \$25 nor more than \$750. The purpose of the fee is to cover actual costs for each permit applied for under sections 105.37 to 105.64 and for each project undertaken without proper authorization.

The commissioner shall establish ~~pursuant to rules adopted in the manner provided by a schedule of field inspection fees under~~ section 16A.128; ~~a schedule for field inspection fees which shall.~~ The schedule must include actual costs related to field inspection such as investigations of the area affected by the proposed activity, analysis of the proposed activity, consultant services, and subsequent monitoring, if any, of the activity authorized by the permit.

Except as provided below, the commissioner may not issue a permit until all fees required by this section relating to the issuance of a permit have been paid. The time limits prescribed by subdivision 4, do not apply to an application for which the appropriate fee has not been paid. Field inspection fees relating to monitoring of an activity authorized by a permit may be charged and collected as necessary at any time after the issuance of the permit. No permit application or field inspection fee may be refunded for any reason, even if the application is denied or withdrawn. No permit application or field inspection fee may be imposed on any state agency, as defined in section 16B.01, or federal governmental agency applying for a permit.

#### 105.45 PERMITS AND ORDERS OF COMMISSIONER; NOTICE.

The commissioner shall make findings of fact ~~upon all on~~ issues necessary for determination of the applications considered. ~~All~~ Orders made by the commissioner shall must be based upon findings of fact made on substantial evidence. The commissioner may ~~cause have~~ investigations ~~to be made, and in such event.~~ The facts disclosed thereby shall by investigation must 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, the commissioner shall grant the permit ~~and.~~ If that be they are in issue, the commissioner shall also fix the control levels of public waters accordingly. ~~In all other cases~~ Otherwise the commissioner shall reject the application or may require ~~such~~ modification of the plan as the commissioner ~~deems~~ finds 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 in it~~ terms and reservations ~~with respect to~~ about the amount and manner of ~~such the~~ use or appropriation or method of construction or operation of controls as ~~appears~~ appear reasonably necessary for the safety and welfare of the people of the state.

Notice of ~~all~~ orders made after hearing shall must be given by publication of

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the order once ~~each~~ a 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~~ the hearing.

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

#### 105.46 TIME LIMIT.

The commissioner shall ~~fix~~ set the time within which ~~all~~ construction authorized in the permit must be completed, or within which the appropriation or use of water must be made, ~~which~~. The time shall must not exceed five years from the date of the permit. ~~Such~~ The time may be thereafter later extended by the commissioner for good cause shown. Permits granted in connection with the mining, transporting, concentration or shipment of taconite as defined in ~~Minnesota Statutes 1945~~, section 93.20, subdivision 18, and permits granted in connection with the mining, production, or beneficiation of copper, copper-nickel, or nickel, ~~shall be~~ are irrevocable for the term ~~thereof of the permits~~ without the consent of the permittee, except for breach or nonperformance of any condition of the permit by the permittee ~~and~~. The commissioner may allow and prescribe ~~therein such in the permit any time as the commissioner deems considers~~ reasonable, regardless of the limitations of time contained in this section, for ~~the commencement beginning or completion of any completing~~ construction or operations under ~~such the permit, or the exercising of the rights granted thereunder, or under it~~. The commissioner may extend such the time, for cause shown, upon the application of the permittee.

#### 105.461 ORDERS TO RESTORE.

As a part of ~~any an~~ 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 their 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; contest the order within 30 days of the receipt of an order to restore public waters or beds; ~~contest the order receiving it and shall be afforded must be given~~ a contested case hearing ~~in the manner as~~ prescribed by chapter 14.

#### 105.462 INVESTIGATIONS; ORDERS WITHOUT A PERMIT APPLICATION.

On determining that the public interest requires it, the commissioner may investigate ~~any~~ activities being conducted in relation to public waters without a permit as required by sections 105.37 to 105.55. With or without a public hearing, the commissioner may make findings and issue orders as otherwise may be issued ~~pursuant to under~~ sections 105.37 to 105.55. A copy of the findings and order ~~shall must~~ be served upon the person to whom the order is issued. If

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the commissioner issues the findings and order without a hearing, the person to whom the order is issued may file with the commissioner a demand for a hearing, together with the bond required by section 105.44, subdivision 6, within 30 days after being served with a copy of the commissioner's order. The matter ~~shall~~ must be heard in the same ~~manner way~~ and ~~pursuant to~~ under the same laws as an application is heard following a demand made under section 105.44, subdivision 3, ~~insofar as applicable~~. If ~~no~~ the person does not demand for a hearing is made by the person to whom the order is issued under this section, or if that person demands a hearing but fails to file the required bond, the commissioner's order becomes final at the ~~expiration~~ end of 30 days after the person is served with the order and no appeal of the order may be taken.

#### 105.463 CONTRACTOR'S RESPONSIBILITY.

It is ~~unlawful for any~~ Except under certain conditions, an agent, servant, or employee of another ~~to~~ may not construct, reconstruct, remove, make any change in any reservoir, dam, or waterway obstruction on any public water, or in any manner ~~to~~ change or diminish the course, current, or cross-section of any public waters ~~unless~~. These actions are lawful only if the agent, servant, or employee has:

(a) (1) obtained a signed statement from the landowner that all permits required for the work have been obtained or that no permit is required; and

(b) (2) mailed a copy of the statement to the office of the department for the region in which the proposed work is located.

Violation of this section constitutes a separate and independent offense from any other provided by sections 105.37 to 105.55.

The commissioner of natural resources shall develop a suitable form to be distributed to contractors' associations and county auditors for the purposes of this section; ~~which shall~~. The form must include:

(1) a listing of the activities for which a permit is required;

(2) a description of the penalties for violating this chapter;

(3) the mailing addresses and telephone numbers of the various regional offices of the department of natural resources;

(4) a statement that water inventory maps completed ~~pursuant to~~ according to section 105.391, subdivision 1, are on file with the auditors of the various counties; and

(5) spaces for a description of the work and the names, mailing addresses, and phone numbers of the person authorizing the work and the agent, servant, or employee proposing to undertake it.

#### 105.471 VENUE OF ACTIONS ~~AGAINST COMMISSIONER; DRAIN-~~

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**AGE AND CLASSIFICATION OF PUBLIC WATERS ON COMMISSIONER'S DECISIONS.**

Notwithstanding any other law to the contrary, ~~any an~~ any an action for declaratory judgment that is ~~commenced~~ brought under chapter 555 by or against the commissioner to determine the validity of the commissioner's final decision regarding the classification of ~~any~~ waters of the state as public waters ~~pursuant to~~ under sections 105.38 to 105.391, or the drainage of waterbasins or watercourses as provided in sections 106A.011 and 106A.015, subdivision 1, shall ~~must~~ be venued in the county where the water, watercourse, or waterbasin is located, if the water, watercourse, or waterbasin is located in one county; ~~or in the judicial district where the majority of the water, watercourse or waterbasin is located.~~ If the water, watercourse, or waterbasin is located in more than one county, then the venue is the judicial district where the majority of the water, watercourse, or waterbasin is located.

**105.475 STREAM MAINTENANCE PROGRAM.**

Subdivision 1. **FINDINGS.** In recognition of recurrent problems created by debris and rubble accumulation in streams in Minnesota, the legislature finds that the removal of debris and rubble ~~for the purpose of cleaning up to clean up~~ stream beds and flood plains of streams ~~is of benefit to~~ benefits the public health, safety, and welfare.

Subd. 2. **ESTABLISHMENT; COMMISSIONER'S DUTIES.** ~~In furtherance of the finding set forth in subdivision 1;~~ The commissioner of natural resources shall establish and supervise a stream maintenance program ~~which shall.~~ The program must include grants-in-aid to participating counties. Money granted by the commissioner ~~shall~~ must be apportioned according to the relative severity of the maintenance problem, the date of application for the grant, and the availability of funds. ~~In no case may the amount granted to a county by the commissioner~~ The grant must not exceed 75 percent of the total cost of a stream maintenance project. The stream maintenance work ~~shall~~ must be performed by the county or under county supervision. The commissioner may grant money for the following work:

- (1) cutting and removal of brush and dead or down trees; and
- (2) removal of large rocks and other debris such as concrete, asphalt, or scrap material.

No money may be granted for excavation or filling or for work performed before an application is filed.

Subd. 3. **APPLICATION.** A county desiring to participate in the stream maintenance program shall complete and submit to the commissioner an application for the proposed work on forms provided by the commissioner. Unless waived by the commissioner, the county shall submit the following information with its application:

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(a) ~~(1)~~ a map of the county showing the stream ~~for which maintenance is desired~~, and the specific reaches of the stream to be maintained;

~~(b)~~ (2) photographs showing the nature and extent of the maintenance problem; and

~~(c)~~ (3) a resolution by the county board of commissioners ~~requesting participation asking to participate~~ in the program and agreeing to provide at least 25 percent of the cost of the maintenance project.

Subd. 4. **CONTRACT.** Upon approving a stream maintenance project, the commissioner shall contract with the county for performance of work necessary to the ~~stream maintenance~~ project. The contract may provide that the county share of the cost of the project may be paid in the form of services provided by the county.

Subd. 5. **COUNTY MATCHING FUNDS.** Any county may appropriate from its general revenue fund sufficient funds to match the grants in aid authorized in this section.

#### 105.48 DAM CONSTRUCTION AND MAINTENANCE BY STATE.

~~The commissioner, in order~~ To improve navigation, protect and improve domestic water supply, protect and preserve fish and other ~~wild life~~ wildlife, protect the public interest in the shore and shore lines of public waters, and promote public health; ~~shall have power to,~~ the commissioner may construct, maintain, and operate ~~all necessary~~ dikes, dams, and other structures necessary to maintain ~~such~~ uniform water levels as ~~may~~ be established under sections 105.37 to 105.55.

For the purposes of sections 105.37 to 105.55 the commissioner is ~~authorized to~~ may acquire lands or any necessary interest ~~therein~~ in lands by purchase, gift, or condemnation.

~~All~~ Dams owned by the state or ~~erected upon~~ built on lands owned or controlled by the state ~~shall~~ must be maintained under the direction of the commissioner and ~~the same shall~~ be operated under the commissioner's direction and control.

The commissioner is ~~authorized to~~ may accept funds from local governmental and civic agencies or persons ~~funds for the purpose of constructing, maintaining, or operating to construct, maintain, or operate~~ dams and control structures or ~~acquiring~~ acquire the lands required ~~therefor~~ for those purposes.

#### 105.482 DAMS; REPAIR, RECONSTRUCTION; GRANTS.

Subdivision 1. **PURPOSE.** The public health, safety, and welfare is promoted by the orderly repair and restoration of dams serving the public interest and by the use of existing dams and potential dam sites for hydroelectric or hydromechanical power generation wherever that use is economically justified

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and environmentally sound. ~~In furtherance of this objective~~ Therefore, it is the purpose of this section to facilitate the repair and restoration of dams owned by the state and local governmental units and to investigate and analyze hydroelectric or hydromechanical generating capability of publicly owned dams and potential dam sites.

Subd. 2. **DEFINITION.** ~~For the purposes of In~~ this section, the term "local governmental unit" means any political subdivision of the state, or any two or more of these subdivisions acting jointly.

Subd. 3. **COMMISSIONER'S DUTIES.** From money appropriated for the following purposes ~~from time to time~~, the commissioner of natural resources may repair or reconstruct state-owned dams and may grant aid to local governmental units to repair or reconstruct dams owned by local governmental units and to make necessary engineering evaluations related to the repair or reconstruction. The engineering evaluations may include, but are not limited to, studies of the feasibility, practicality, and environmental effects of ~~utilizing~~ using dams for hydroelectric power generation. Except as provided ~~below in this section~~, no grant to a local governmental unit ~~shall~~ may exceed the amount contributed to the project by the local governmental unit from funds raised locally. A grant to study the feasibility, practicality, and environmental effects of ~~utilizing~~ using a dam for hydroelectric power generation may be for an amount not ~~to exceed~~ over 90 percent of the costs of the study. Federal general revenue sharing money may be counted as funds raised locally, but other federal grants or loans ~~shall~~ must be used to reduce equally the state share and the local share of project costs.

Subd. 4. **PROCEDURES.** The commissioner shall repair or reconstruct a state-owned dam or make a grant to a local governmental unit only after making an investigation of the dam. A local governmental unit desiring a grant for the repair or reconstruction of a dam shall apply for the grant on forms supplied by the commissioner. The commissioner shall consider all relevant factors, including but not limited to the following in determining whether to repair or reconstruct a state-owned dam or to make a grant to a local governmental unit:

- (a) (1) the age and type of construction of the dam;
- (b) (2) the use of the dam for water supply, flood control, navigation, hydroelectric power generation, recreation, wildlife management, scenic, or other purpose related to public health, safety, and welfare;
- (c) (3) the consequences of abandonment, removal, or alteration of the dam;
- (d) (4) prospective future uses of the dam; and
- (e) (5) the relative importance of the dam to the statewide water resource program.

Upon the commissioner's own initiative or at the request of a governmental unit applying for a grant, the commissioner may hold a public hearing under

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section 105.44 on the proposed repair or reconstruction ~~in the manner provided in section 105.44,~~ after giving the same notice as required for such a hearing. If the hearing is held at the request of a governmental unit, the costs of publishing notice and of taking and preparing the stenographic record ~~shall~~ must be paid by the governmental unit. To receive a grant the local governmental unit ~~shall~~ must enter into an agreement with the commissioner giving assurance that the governmental unit will operate and maintain the dam in a safe condition for the benefit of the public and ~~shall~~ must agree to ~~such~~ other conditions as the commissioner ~~deems~~ considers reasonable.

Subd. 5. **LIMITATIONS.** If the cost of repair or reconstruction of a state-owned dam or a grant to a local governmental unit is less than \$75,000, the commissioner may direct that the state-owned dam be repaired or reconstructed or that a grant be made to repair or reconstruct a dam owned by a local governmental unit without the approval of the state executive council. If the cost of repair or reconstruction of a state-owned dam, or a grant to a local governmental unit amount is \$75,000 or more but less than \$150,000, the expenditure shall be made only with the approval of the state executive council. If the cost of repair or reconstruction of a state-owned dam or a grant to a local governmental unit amount is \$150,000 or more, the commissioner may recommend the project to the legislature for its consideration and action, except in the following ~~emergency situations~~ emergencies. With the approval of the executive council, the commissioner may direct that a state-owned dam be repaired or reconstructed or a grant be made to a local governmental unit ~~where~~ if the commissioner determines that an emergency ~~condition~~ exists and that there is danger that life will be lost or that substantial property losses will be suffered if ~~such~~ action is not promptly taken.

Subd. 5a. **LOANS.** When the commissioner of natural resources decides to recommend to the legislature a dam repair or reconstruction grant ~~to~~ for a local governmental unit, the commissioner shall notify the local governmental unit and the commissioner of finance of the decision. The local government unit may then apply to the commissioner of finance on forms supplied by the commissioner of finance for a loan to cover up to 90 percent of the local share of project costs. The loan is repayable over a period not ~~to exceed~~ longer than 20 years, with interest at a rate sufficient to cover the cost to the state of borrowing the money. Each local unit of government receiving a dam safety loan shall levy for the loan payment in that year and each later year ~~thereafter~~, until its loan is paid;

(a) (1) the amount of its annual loan payment, or

(b) (2) the amount of the required loan payment levy less the amount the local unit certifies is available from other sources for the loan payment.

Upon approval of the project grant by the legislature, the commissioner of finance shall make the loan in an amount and on terms that are appropriate. Loans made ~~pursuant to~~ under this subdivision ~~shall~~ do not require approval by

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the electors of the local governmental unit as provided in section 475.58. All Principal and interest payments received by the commissioner of finance in repayment of these loans are appropriated to the Minnesota state building bond account.

**Subd. 6. COMMISSIONER'S ORDER TO REPAIR OR RECONSTRUCT A DAM.** If for any reason a local governmental unit fails to repair or remove a dam when ordered to do so by the commissioner ~~pursuant to~~ under section 105.52, the commissioner may repair or remove the dam. ~~In so doing the commissioner shall proceed by~~ proceeding as follows. After a hearing as provided in section 105.44, on the failure of the local governmental unit to repair or remove the dam, the commissioner shall make findings relating to the matter, specifying the failure of the local governmental unit to act, and shall by order assume ~~and possess~~ the powers of the legislative authority of the local governmental unit in regard to the repair or removal of dams. ~~Thereafter~~ After issuing the order, the commissioner has the same powers, insofar as applicable to the repair or removal of dams, as the commissioner of administration and pollution control agency have in the construction, installation, maintenance, or operation of a municipal disposal system, or part ~~thereof of a system,~~ or issuing bonds and levying taxes ~~therefor,~~ pursuant to under section 115.48.

**Subd. 7. PRIORITY LIST OF DAMS NEEDING REPAIR.** On the basis of examinations of dams owned by the state or local governmental units, the commissioner shall report annually to the legislature those state or local governmental dams in need of repair or reconstruction in the order of priority the commissioner determines necessary considering danger to life, damage to property and those factors listed in subdivision 4.

**Subd. 8. HYDROPOWER GENERATION POLICY; LEASING OF DAMS AND DAM SITES.** Consistent with laws relating to dam construction, reconstruction, repair, and maintenance, the legislature finds that the public health, safety, and welfare of the state is also promoted by the use of state waters to produce hydroelectric or hydromechanical power. Further, the legislature finds that the leasing of existing dams and potential dam sites primarily for ~~such~~ power generation is a valid public purpose. A local governmental unit, or the commissioner of natural resources with the approval of the state executive council, may provide ~~pursuant to~~ by a lease or development agreement for the development and operation of dams, dam sites, and hydroelectric or hydromechanical power generation plants owned by the respective government by an individual, a corporation, an organization, or other legal entity upon terms and conditions ~~as contained~~ in subdivision 9. For installations of 15,000 kilowatts or less at a dam site and reservoir that is ~~not being used~~ unused on January 1, 1984, in connection with the production of hydroelectric or hydromechanical power, the lease or development agreement negotiated by the local governmental unit and the developer ~~shall constitute~~ constitutes full payment by the lessee and may be in lieu of all real or personal property taxes that might otherwise be due to a local governmental unit. If the dam, dam site, or power generation plant is located in or contiguous to a city or town, other than the lessor governmental

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unit, the lease or agreement ~~shall is~~ not be effective unless it is approved by the governing body of the city or town. ~~For purposes of~~ In this subdivision, "city" means a statutory or home rule charter city.

Subd. 9. **CONTENTS OF DEVELOPMENT AGREEMENT.** An agreement for the development or redevelopment of a hydropower site may contain, but need not be limited to, the following provisions:

(a) (1) length of the development agreement, subject to negotiations between the parties but not more than 99 years, and conditions for extension, modification, or termination;

(b) (2) provisions for a performance bond on the developer, or, certification that the equipment and its installation have a design life at least as long as the lease; and

(c) (3) provisions to assure adequate maintenance and safety in the impoundment structures, if any, and to assure access to recreational sites, if any.

An agreement ~~shall~~ must contain provisions to assure the maximum financial return to the local governmental unit or the commissioner of natural resources.

#### 105.484 LAKE IMPROVEMENTS; GRANTS-IN-AID; PRIORITIES.

The commissioner of natural resources, with the ~~assistance~~ help of the pollution control agency and the commissioner of energy and economic development, shall ~~make an assessment of~~ assess the need for particular kinds of lake improvements including improvements related to high or low water levels and any other resource management considerations, except pollution problems, and develop criteria for allocating state aid funds among proposed projects. The assessment must include provisions ~~shall be included to insure~~ ensure that any federal program of aid to local lake improvement projects ~~serves to reduce~~ reduces the local share of project costs ~~rather than reducing and not~~ only the state's share.

#### 105.485 REGULATION OF SHORELAND DEVELOPMENT.

Subdivision 1. **PURPOSE.** ~~In furtherance of~~ To promote the policies ~~declared~~ in section 105.38; and chapter 116, it is in the interest of the public health, safety, and welfare to:

(1) provide guidance for the wise development of shorelands of public waters and thus preserve and enhance the quality of surface waters;

(2) preserve the economic and natural environmental values of shorelands; and

(3) provide for the wise ~~utilization~~ use of water and related land resources of the state.

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

Subd. 2. **DEFINITIONS.** ~~For the purposes of this section (a)~~ The terms defined used in this section have the meanings given them: in this subdivision.

~~(a)~~ (b) "Shoreland" means land located within the following distances from the ordinary high water elevation of public waters: (1) land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and (2) land within 300 feet of a river or stream or the landward side of flood plain delineated by ordinance on such a river or stream, whichever is greater.

~~(b)~~ (c) "Unincorporated area" means the area outside a city.

~~(e)~~ (d) "Municipality" means a city.

Subd. 3. **COMMISSIONER'S DUTIES.** The commissioner of natural resources shall adopt, ~~in the manner provided in under~~ chapter 14, model standards and criteria, other than a model ordinance, for the subdivision, use, and development of shoreland in municipalities; ~~which.~~ The standards and criteria shall must include but not be limited to those listed ~~below in regard to unincorporated areas in clauses (1) to (7).~~ The commissioner of natural resources shall adopt, ~~in the manner provided in under~~ chapter 14, model standards and criteria for the subdivision, use, and development of shoreland in unincorporated areas, including but not limited to the following:

~~(a)~~ (1) the area of a lot and length of water frontage suitable for a building site;

~~(b)~~ (2) the placement of structures in relation to shorelines and roads;

~~(e)~~ (3) the placement and construction of sanitary and waste disposal facilities;

~~(d)~~ (4) designation of types of land uses;

~~(e)~~ (5) changes in bottom contours of adjacent public waters;

~~(f)~~ (6) preservation of natural shorelands through the restriction of land uses;

~~(g)~~ (7) variances from the minimum standards and criteria; and

~~(h)~~ (8) a model ordinance.

The following agencies shall provide information and advice necessary to ~~the preparation of prepare or amend~~ the rules; ~~or amendments thereto:~~ the state departments of agriculture, health, and energy; ~~planning and economic development;~~ the state planning and pollution control agency agencies; the state soil and water conservation board; and the Minnesota historical society. In addition to other requirements of chapter 14, the model standards and ordinance adopted ~~pursuant to under~~ this section, or amendments ~~thereto;~~ shall to them must not be filed ~~with the secretary of state finally adopted~~ unless approved by the state commissioner of health and the director of the pollution control agency.

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

Subd. 4. **FAILURE OF COUNTY TO ACT; COMMISSIONER'S DUTIES; ENFORCEMENT.** The commissioner shall adapt the model ordinance to the county if a county:

(1) fails to adopt a shoreland conservation ordinance by July 1, 1972; or

(2) if the commissioner of natural resources, at any time after July 1, 1972, after notice and hearing as provided in section 105.44, finds that a county has adopted a shoreland conservation ordinance ~~which that~~ fails to meet the minimum standards established pursuant to under this section; ~~the commissioner shall adapt the model ordinance to the county.~~

The commissioner shall hold at least one public hearing on the proposed ordinance in the manner provided in section 394.26, after giving notice as provided in section 394.26. This ordinance is effective for the county on the date and in accordance with ~~such any rules~~ the commissioner prescribes relating to compliance as ~~the commissioner shall prescribe.~~ The ordinance ~~shall~~ must be enforced as provided in section 394.37. The penalties provided in section 394.37, apply to violations of the ordinance so adapted by the commissioner.

Subd. 5. **COSTS.** The cost incurred by the commissioner in adapting the model ordinance to the county pursuant to under subdivision 4 shall be paid by the county upon the submission to the county of an itemized statement of these costs by the commissioner. If the county fails to pay these costs within 90 days after the commissioner's statement is received, the commissioner may file a copy of the statement of these costs with the county auditor of the county for collection by special tax levy. The county auditor, upon receiving a statement from the commissioner, shall include the amount of the state's claim in the tax levy for general revenue purposes of the county. This additional tax ~~shall~~ must be levied in excess of any limitation as to rate or amount, but ~~shall~~ must not ~~cause~~ reduce the amount of other taxes ~~which that~~ are subject to any limitation ~~to be reduced in any amount whatsoever.~~ Upon On completion of the tax settlement following this levy, the county treasurer shall ~~remit~~ pay the amount due to the state to the commissioner for deposit in the state treasury.

Subd. 6. **MUNICIPAL SHORELAND MANAGEMENT.** Before April 1, 1974, each municipality having shoreland within its corporate limits shall submit to the commissioner, for review, any ordinances or rules affecting the use and development of its shorelands. The commissioner shall review the ordinances or rules and determine whether they are in substantial compliance with municipal shoreland management standards and criteria ~~promulgated pursuant to~~ under subdivision 3. In making the review, the commissioner also shall consider any feature unique to the municipal shoreland in question, including but not limited to the characteristics of the waters ~~which that~~ may be affected by development, storm sewer facilities, and sanitary and waste disposal facilities in existence at the time of the commissioner's review.

If the commissioner determines that the ordinances or rules of a municipality do not substantially comply with the state standards and criteria for municipal shoreland management, then the commissioner shall ~~so~~ notify the municipi-

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ality ~~and~~. ~~The notice shall indicate to~~ must tell the municipality ~~the what~~ changes ~~which~~ are necessary to bring the ordinances or rules into substantial compliance with state standards and criteria. Within one year after receiving this notice from the commissioner, the municipality shall make ~~the~~ changes necessary to bring the ordinances or rules into substantial compliance with state standards and criteria. If a municipality has no ordinance or rule affecting the use and development of shoreland on April 1, 1974, it shall adopt such an ordinance or rule complying with state standards and criteria for municipal shoreland management, before July 1, 1975.

The commissioner may adopt an ordinance or rules for the municipality if:

(a) (1) a municipality has no ordinance or rule affecting the use and development of shoreland on April 1, 1974, and fails to adopt ~~such an ordinance~~ one by July 1, 1975; ~~or if:~~

(b) (2) the corporate boundaries of the municipality are expanded to include shorelands not previously included within the municipal boundaries and the municipality fails to adopt ~~such an ordinance~~ within one year after including the shorelands within its municipal boundaries; ~~or if~~

(c) (3) the commissioner determines that a municipal shoreland management ordinance does not substantially comply with the state standards and criteria for municipal shoreland management and that the municipality has failed to make the necessary changes within one year after receiving notice of noncompliance; ~~the commissioner may adopt an~~. The ordinance or rules for the municipality must be adopted in the following manner. The commissioner shall hold at least one public hearing on the proposed ordinance or rules in the manner provided in section 462.357, after giving notice ~~as provided in~~ under section 462.357. The ordinance or rules are effective for the municipality on the date and in accordance with ~~such any rules prescribed by the commissioner~~ relating to compliance ~~as the commissioner shall prescribe~~. The ordinance shall must be enforced as provided in section 462.362. The penalties ~~provided~~ in section 462.362 apply to violations of the ordinances or rules adopted for the municipality by the commissioner.

The costs incurred by the commissioner in adopting the ordinances or rules for the municipality ~~shall must~~ be paid by the municipality and collected from the municipality ~~in the same manner as such~~ just as costs are paid by a county and collected from a county ~~pursuant to~~ under subdivision 5; ~~and~~. Any Tax levied to pay the costs ~~shall must~~ be levied in excess of any limitation as to rate or amount, but ~~shall must~~ not ~~cause~~ reduce the amount of other taxes ~~which that~~ are subject to any limitation ~~to be reduced in any amount whatsoever~~.

Subd. 7. MUNICIPAL USE OF LAND OTHER THAN SHORELAND. Municipal planning and land use controls for land other than shoreland in the vicinity of shoreland ~~shall must~~ be, to the maximum extent practical, compatible with planning and land use controls for shoreland adopted ~~pursuant to~~ under subdivision 6.

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Subd. 8. **EXTENT OF AUTHORITY OF MUNICIPALITY.** ~~Nothing in Laws 1973, chapter 379 shall be construed to~~ This section does not prohibit a municipality from adopting and enforcing ordinances or rules affecting the use and development of shoreland ~~which~~ that are more restrictive than the state standards and criteria.

#### 105.49 COOPERATION WITH OTHER AGENCIES.

The commissioner may cooperate and enter into agreements with the United States government, ~~any a state department of the state of Minnesota,~~ or any state or country adjacent to the state of Minnesota ~~for the purpose of effecting any of the provisions of to carry out~~ sections 105.37 to 105.55. The commissioner may cooperate with any department of the government of the United States in the execution of surveys within the state.

Personnel of the pollution control agency, the health department, and county and municipal governments shall cooperate with the commissioner in monitoring and enforcing water permits. ~~It shall be the duty of all County attorneys, sheriffs, and other peace officers and other officers having authority to~~ shall take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of ~~any of~~ the provisions, rules, standards, orders, or permits specified in sections 105.37 to 105.55.

#### 105.50 COMMISSIONER TO APPEAR FOR STATE.

The commissioner may appear, represent, and act for the state in any matter relating to any application to be made to the federal government relating to waters within the state or ~~the their use thereof~~ and may do ~~and perform such acts in connection therewith as whatever~~ the commissioner deems finds proper to protect the interests of the people of the state consistent with ~~the provisions of~~ sections 105.37 to 105.55.

#### 105.51 WELLS; CONTROL, REPORTS BY DRILLERS.

Subdivision 1. **WASTE PREVENTION REQUIRED.** For the conservation of the underground water supplies of the state, the commissioner ~~is authorized to~~ may require the owners of wells, especially flowing artesian wells, to prevent waste.

Subd. 2. **DRILLING RECORDS.** ~~Every~~ A person, firm, or corporation ~~who shall provide that provides~~ the means of appropriating ground water by drilling, boring, or otherwise shall file a verified statement with the director of the division of waters containing the log of the materials and water encountered ~~in connection therewith, together with all and related~~ water pumping tests ~~relating thereto. Such The~~ statements ~~shall be~~ are confidential and ~~can~~ be used only by the division for scientific study. The ~~study's result of which~~ study's result ~~of which~~ may be public information. The commissioner may exclude from the requirement to file ~~such~~ statements those whose operations are of a type ~~which that~~ would not yield significant scientific information.

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Subd. 3. **WELL ABANDONMENT.** ~~It shall be unlawful for~~ The owner of ~~any~~ a well having with a casing six inches or more in inside diameter ~~to must~~ not abandon such the well, ~~or to cover or otherwise render the same it~~ inaccessible for inspection, ~~or to permanently remove the pumps therefrom from it~~ without notifying the commissioner of natural resources and complying with the commissioner's recommendations ~~relating thereto~~. The commissioner may make ~~such~~ recommendations and impose ~~such~~ conditions as the commissioner ~~may~~ find finds advisable in the public interest. The commissioner, or an authorized agent of the commissioner, shall be granted access at any reasonable time to inspect the site of any ~~such~~ well that has been abandoned, or for which notice of abandonment has been given under this subdivision.

### 105.52 EXAMINATION AND REPAIR OF DAMS AND RESERVOIRS.

Upon complaint or acting personally, the commissioner ~~is authorized to~~ may examine any a reservoir, dam, control structure, or waterway obstruction. In so doing the commissioner, or an authorized agent, shall be granted access at any reasonable time to examine the reservoir, dam, control structure, or waterway obstruction. If the commissioner determines that additional engineering investigations are necessary ~~in order~~ to determine the safety of the dam, reservoir, control structure, or waterway obstruction and the nature and extent of the necessary repairs or alterations, the commissioner shall notify the owner ~~thereof~~ to ~~cause such have~~ investigations ~~to be~~ made at the owner's expense and filed with the commissioner for use in determining the condition of the structures and the need for ~~the their~~ repair, alteration, or removal ~~thereof~~.

If the commissioner determines that ~~such the~~ reservoir, dam, control structure, or waterway obstruction is unsafe or needs repair or alteration, the commissioner shall notify ~~the its~~ owner ~~thereof~~ to repair, alter, or remove ~~the same it~~ as the exigencies of the case ~~may require necessary~~, and shall issue an order to that effect ~~in the same manner and subject to the same conditions~~ as if the owner had ~~made application applied~~ for permit for the ~~said~~ repairs, alterations, or removal. The engineering investigations or the work of repair, alteration, or removal ~~shall be commenced must begin~~ and ~~be~~ completed within ~~such a~~ reasonable time as ~~may be~~ prescribed by the commissioner.

### 105.521 DAM EXAMINATION REPORTS; LIMITATIONS ON TRANSFERS OF DAMS.

No state department or agency and no county, city, town, or other governmental entity may purchase or accept as a gift any privately owned dam subject to permit requirements until after:

- (1) the commissioner has examined the dam;
- (2) the commissioner has prepared a report of the examination and filed it with the legislature; and
- (3) the legislature has had an opportunity to consider the report and has not

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prohibited the purchase or gift during the legislative session in which the report is filed, or, if the report is filed when the legislature is not in session, the legislature has not prohibited the gift or purchase at the next ~~succeeding~~ session.

#### 105.53 APPLICATION.

Sections 105.37 to 105.55 ~~shall do not in any way supersede or amend the provisions of Minnesota Statutes 1945,~~ sections 92.45 and 110.13.

~~Nothing in~~ Sections 105.37 to 105.55 ~~shall do not~~ authorize the commissioner to require a permit for the original construction of dams, reservoirs, or control works in existence on and ~~prior to~~ before July 1, 1937.

#### 105.535 RULES.

The commissioner of natural resources shall ~~promulgate~~ adopt rules ~~pursuant to~~ under Laws 1978, chapter 779 by April 1, 1979. These rules ~~shall~~ must include provisions ~~which that~~ that exclude from permit requirements; minor dams such as those less than six feet in height or ~~which that~~ that impound less than 50 acre-feet of storage at maximum storage elevations. This does not apply to any such barrier which that is not in excess of six feet in height, regardless of storage capacity, or ~~which that~~ that has a storage capacity at maximum water storage elevation not in excess of 15 acre-feet, regardless of height. Rules ~~shall~~ must include a fee schedule to cover the cost of dam inspection and ~~shall~~ must classify structures to adequately define risks and hazards involved in relation to public health, safety, and welfare. The rules ~~shall~~ may not impose a field inspection fee on any state agency, political subdivision of the state, or federal governmental agency.

#### 105.541 PENALTIES.

Whoever does any of the following is guilty of a misdemeanor:

(1) undertakes or procures another to undertake an alteration in the course, current, or cross section of public waters or appropriates waters of the state without a permit from the commissioner previously obtained regardless of whether the commissioner would have granted a permit had an application been filed;

(2) undertakes or procures another to undertake an alteration in the course, current, or cross section of public waters or appropriates waters of the state in violation or in excess of authority granted ~~pursuant to~~ under a permit ~~duly~~ issued by the commissioner, regardless of whether an application had been filed for permission to perform the act involved, or whether the act involved would have been permitted had a proper application been filed;

(3) undertakes or procures another to undertake an alteration in the course, current, or cross section of public waters or appropriates waters of the state after a permit to undertake ~~such~~ the project has been denied by the commissioner; or

(4) violates any other provision of this chapter.

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**105.55 COMMISSIONER'S ORDERS, ENFORCEMENT.**

Upon application of the commissioner, the district court of ~~any a~~ county in which the project is wholly or partially located, may by injunction, enforce the compliance with, or restrain the violation of, any order of the commissioner made ~~pursuant to~~ under sections 105.37 to 105.55, or restrain the violation of those sections.

**105.63 TRANSFER OF CUSTODY OF CERTAIN DAM AND WATER CONTROLS FROM STATE AGENCY.**

Subdivision 1. **APPLICATION FOR TRANSFER.** Upon application by resolution of the governing body of any governmental subdivision of the state ~~having authority~~ authorized to maintain and operate dams or other control works affecting public waters, the commissioner of natural resources, ~~hereinafter called the commissioner,~~ with the approval of the executive council, may transfer to ~~such the~~ subdivision the custody of ~~any such a~~ dam or other water control works belonging to the state and under the supervision or control of the commissioner ~~in any case where if~~ the commissioner ~~shall determine~~ determines that the transfer will be ~~in furtherance of~~ promote the best interests of the public. ~~Such The~~ transfer ~~shall must~~ be made by order of the commissioner upon ~~such the~~ terms and conditions as the commissioner ~~shall prescribe~~ respecting sets for maintenance and operation of the project. In connection with ~~such the~~ transfer the commissioner may convey to the transferee by deed or other appropriate instrument in the name of the state any lands, easements, or other state property ~~of the state~~ pertaining to the project, subject to ~~such~~ conditions and reservations as the commissioner ~~may deem~~ finds proper. A duplicate of every order, conveyance, or other instrument executed by the commissioner in connection with a transfer ~~shall must~~ be filed with the commissioner of finance.

Subd. 2. **ACTUAL TRANSFER.** A transfer may be made ~~hereunder~~ with or without payment of money ~~consideration~~ to the state, as ~~may be~~ agreed upon between the commissioner and the transferee. ~~Any amounts~~ Payment received ~~on account of such consideration shall must~~ be paid into the general fund.

**105.64 DRAINAGE OR DIVERSION OF WATER TO FACILITATE FOR MINING.**

Subdivision 1. **MINING PERMITS.** The commissioner of natural resources may grant permits for the drainage, diversion, control, or use of ~~any~~ waters under the commissioner's jurisdiction when necessary for the mining of iron ore, taconite, copper, copper-nickel, or nickel; ~~wherever situated,~~ as ~~herein~~ provided in this section.

Subd. 2. **APPLICATION.** Application for ~~such a~~ permit ~~shall must~~ be made to the commissioner in ~~such the~~ form as the commissioner ~~shall prescribe~~ prescribes by the owner of the iron ore, taconite, copper, copper-nickel, or nickel deposits affected or by the owner of the right to mine ~~the same them~~. Except as otherwise ~~herein~~ provided, all matters pertaining to ~~such the~~ application, to the

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proceedings ~~thereon~~ on it, and to any permit issued ~~thereon~~ shall be on it ~~are~~ governed by the applicable provisions of sections 105.37 to 105.55 ~~relating to~~ applications and permits affecting waters; so far as applicable.

Subd. 3. **GRANT.** A permit shall be granted ~~hereunder~~ only upon determination by when the commissioner of the following conditions ~~determines:~~

(1) that the proposed drainage, diversion, control, or use of waters will be necessary for the mining of substantial deposits of iron ore, taconite, copper, copper-nickel or nickel, and that no other feasible and economical method ~~therefor~~ of mining is reasonably available;

(2) that the proposed drainage, diversion, control, or use of waters will not substantially impair the interests of the public in lands or waters or the substantial beneficial public use ~~thereof~~ of lands or waters except as expressly authorized in the permit, and will not endanger public health or safety; and

(3) that the proposed mining operations will be in the public interest, and that the resulting public benefits ~~resulting therefrom~~ will be sufficient to warrant the proposed drainage, diversion, or control of waters.

Subd. 4. **OPERATION.** ~~In any case where~~ If the operations authorized by a permit ~~hereunder~~ may affect any public or private property not owned by the permittee, before proceeding with ~~such~~ the operations, the permittee shall acquire all rights or easements necessary ~~therefor~~ for them, shall pay or ~~furnish~~ give security for the payment of all damages to ~~such~~ the property that may result ~~therefrom~~ from the operations, and shall ~~furnish~~ give ~~such~~ evidence of compliance with ~~the provisions hereof~~ this subdivision as the commissioner may require. ~~Neither~~ The state ~~nor any of~~ and its officers, agents, or employees ~~shall do not~~ incur any liability on account of the issuance of a permit ~~hereunder~~ or on account of any act or omission of the permittee, or the permittee's agents or servants, under or in connection with ~~any~~ such the permit.

Subd. 5. **DURATION OF MINING.** Notwithstanding ~~any~~ other limitations prescribed by law, ~~every~~ a permit ~~hereunder~~ shall be granted for ~~such~~ a term ~~as~~ the commissioner ~~shall find~~ finds necessary for the completion of the proposed mining operations, and the commissioner may ~~allow~~ and prescribe in the permit ~~such~~ a time ~~as~~ the commissioner deems reasonable for the commencement or completion of any operations or construction under the permit or the exercise of the rights granted ~~thereby~~ by it. The commissioner may extend the original term of the permit or the time allowed for the performance of ~~any~~ condition thereof ~~may be extended by the commissioner~~ its conditions for good cause shown upon application of the permittee. In ~~any~~ a permit ~~issued hereunder,~~ the commissioner may prescribe ~~such~~ conditions ~~as~~ the commissioner ~~deems~~ finds necessary and practicable for ~~restoration of~~ restoring the waters affected to their former condition after completion of the mining operations or after expiration or cancellation of the permit; and. The commissioner may also prescribe ~~such~~ other conditions ~~as the commissioner deems necessary for protection of to~~ protect the public health, safety, and welfare, and may require the permittee to furnish a bond to the state, in ~~such~~ an appropriate form and amount ~~as the~~

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commissioner deems appropriate, as security for compliance with the conditions of the permit and all applicable provisions of law.

Subd. 6. **IRREVOCABILITY.** Every A permit issued hereunder under this section shall be is irrevocable for the term thereof of the permit and for any extension of such the term except as follows:

(1) A permit may be modified or canceled by the commissioner at the request or with the consent of the permittee upon such conditions as the commissioner deems finds necessary for protection of to protect the public interests;

(2) Subject to appeal in the manner provided by according to sections 105.37 to 105.55, the commissioner may modify or cancel a permit may be modified or canceled by the commissioner in case of any breach of the terms or conditions thereof or in case of any violation of law pertaining thereto by the permittee, or the permittee's agents or servants, or in case if: (i) the permittee or its servants or agents breach the permit's terms or conditions or violate pertinent law; or (ii) the commissioner finds such the modification or cancellation necessary to protect the public health or safety, or to protect the public interests in lands or waters against substantial injury resulting in any manner or to any extent not expressly authorized by the permit, or to prevent substantial injury to persons or property resulting in any manner or to any extent not so authorized;. The commissioner may modify or cancel the permit upon at least 30 days' written notice to the permittee, stating the grounds of the proposed modification or cancellation and giving the permittee an opportunity to be heard thereon;

(3) By written order to the permittee the commissioner may forthwith immediately suspend operations under a permit if necessary in an emergency to protect the public health or safety or to protect public interests in lands or waters against imminent danger of substantial injury in any manner or to any extent not expressly authorized by the permit, or to protect persons or property against such the danger, and may require the permittee to take any measures necessary to prevent or remedy such the injury; provided, that. No such order shall be may remain in effect for more than 30 days from the date thereof of the order without giving the permittee at least ten days' written notice of such the order and an opportunity to be heard thereon on it.

Subd. 7. **EFFECT ON OTHER LAW.** This section shall does not amend, supersede, or repeal any existing law, but shall be is supplementary thereto to it.

#### 105.71 WATER RESOURCES BOARD.

Subdivision 1. **CREATION.** There is hereby established to serve as an agency of the state a board to be known as The Minnesota Water Resources Board is established as a state agency to perform such functions and duties as shall be prescribed by law. The board shall must be composed of three members who are conversant with water problems and conditions within the watersheds of this state and who are not officers or employees of the state, the federal

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government or any political subdivisions ~~thereof, to~~. The members must be appointed by the governor with the advice and consent of the senate. The membership of ~~said the~~ board may be increased by the governor to five members. The additional members ~~shall~~ must have the same qualifications and be appointed in the same ~~manner~~ way as the members of the original board.

The board shall keep a record of its official actions, and may perform ~~such~~ acts, hold ~~such~~ public hearings, and promulgate ~~such~~ rules as ~~may~~ be necessary for the discharge of its duties and the ~~exercise~~ of its functions.

Subd. 1a. **MEMBERSHIP.** The membership terms, compensation, removal of members, and filling of vacancies on the board shall be as provided in section 15.0575.

Subd. 2. **POWERS.** The ~~state~~ board may employ ~~such~~ technical and professional personnel and ~~such~~ other agents and employees, permanent or temporary, as it ~~may require~~ requires, and shall determine their qualifications and duties. Compensation of employees ~~shall~~ must be determined ~~pursuant to~~ under chapter 43A. ~~It shall have authority to~~ The board may prescribe the powers and duties of its officers and employees.

~~Upon~~ On request of the board for the ~~purpose~~ of carrying out ~~any~~ of its functions, the supervising officer of any state agency, or any state institution of learning, shall, insofar as it ~~may be~~ possible under available appropriations, and having due regard to the ~~agency's or institution's~~ agency's or institution's needs of the agency to which the request is directed, assign or detail to the state board from the staff ~~or~~ personnel of the agency or institution of learning, and make ~~such~~ any special reports, surveys, or studies as the state board ~~may request~~ requests.

Subd. 3. **BUSINESS.** The board shall designate its chair, and may annually from time to time change ~~such~~ the designation.

A majority of the board ~~shall constitute~~ is a quorum; ~~and~~. The concurrence of a majority in any matter within their duties ~~shall be~~ is required for a determination.

~~In connection with their duties as members of the board,~~ The board shall ~~provide for the keeping of~~ have a full and accurate record ~~kept~~ of all proceedings and of all resolutions, rules, and orders issued or adopted.

The commissioner of administration shall provide ~~and make available~~ within the department of natural resources ~~suitable~~ and adequate office facilities and space for the board. The legislative auditor shall annually audit the books of the board if funds and personnel permit.

#### 105.72 DECLARATION OF POLICY.

The code of water law of Minnesota is contained in numerous statutes ~~enacted from time to time, which that~~ must be considered as a whole to effect a ~~systematic administration of~~ systematically administer water policy for the pub-

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lic welfare. Seeming contradictions in these laws when applied in a specific proceeding create a need for a forum where the ~~conflicting aspects of~~ public interest conflicts involved can be presented and by consideration of the whole body of water law the controlling policy can be determined and apparent inconsistencies resolved.

#### 105.73 DEFINITIONS.

Subdivision 1. SCOPE. Unless the context clearly indicates a different meaning is intended, the ~~following terms for the purposes of this chapter shall be given used in sections 105.72 to 105.78~~ have the meanings ascribed to given them in this section.

Subd. 2. BOARD. "Board" — means the Minnesota water resources board.

Subd. 3. PROCEEDING. "Proceeding" — Any means a procedure under any of the laws ~~enumerated listed~~ in section 105.74 however administrative discretion or duty ~~thereunder~~ under them may be invoked in any instance.

Subd. 4. AGENCY. "Agency" — Any means a state officer, board, commission, bureau, division, or agency, other than a court, exercising duty or authority under any of the laws ~~enumerated listed~~ in section 105.74.

Subd. 5. COURT. "Court" — ~~The court~~ means the district court or a judge thereof of the district court before whom the ~~proceedings are proceeding~~ is pending.

Subd. 6. QUESTION OF WATER POLICY. "Question of water policy" — means the question or questions of state water law and policy involved where use, disposal, pollution, or conservation of water is a purpose, incident, or factor in a proceeding, the ~~question or questions of state water law and policy involved,~~ including either:

(a) (1) determination of the governing policy of state law in the proceeding, resolving apparent inconsistencies between different statutes;

(b) (2) the proper application of that policy to facts in the proceeding when application is a matter of administrative discretion; or

(3) both (a) (1) and (b) (2).

#### 105.74 ~~ADDITIONAL DUTIES OF BOARD~~ DUTIES; WATER POLICY QUESTIONS.

In addition to other duties ~~elsewhere prescribed~~, the board has the function defined in sections 105.72 to 105.79 when the decision of the agency in a proceeding involves a question of water policy in one or more of the areas of water conservation, water pollution, preservation and management of wildlife, drainage, soil conservation, public recreation, forest management, and municipal planning under any of the following: sections 84.57, 97A.135, 105.41, 105.42, 105.43, 105.44, 105.64, 106A.011, 106A.015, 115.04, 115.05, and chapter 110.

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

### 105.75 PETITION FOR INTERVENTION.

Subdivision 1. **INTERVENTION INVOKED.** The board's intervention is invoked by a petition addressed to it for referral of a question of water policy involved in the proceeding. The petition must identify the proceeding in which it is made and state the grounds for referral generally but in sufficient detail to inform interested parties of the nature of the questions proposed to be presented to the board and the public importance ~~thereof~~ of the questions.

Subd. 2. **CONTENTS.** This petition can be made by the applicant in the proceeding, by any party ~~thereto~~ to the proceeding, the governor, the agency, the commissioner or director of ~~any a~~ division in the department of natural resources, the head of ~~any other~~ another state department of state, ~~any a~~ bureau or division of the federal government ~~a function of which includes with~~ a concern in the proceeding, and ~~any an~~ organization or group of persons of appropriate purpose, or person, the board ~~deems~~ considers representative of any substantial segment of the state or peculiarly able to present evidence bearing on the public interest. The petition must be signed by the petitioner's attorney or verified by the petitioner, or on behalf of the petitioner by any of its officers; ~~shall~~. It must be filed in duplicate, one ~~counterpart~~ copy with the board, the other with the agency.

Subd. 3. **TIMING.** The intervention of the board can be invoked by this petition in any proceeding at any time after the proceeding is initiated and before the agency's order is made.

### 105.751 COURT REFERRALS.

The court may refer ~~any a~~ procedure before it under any of the laws ~~en-~~ umerated listed in section 105.74, to the board. This referral may be used in both original and appellate matters; it may be invoked by a petition of the court directed to the board. ~~Any A~~ party to the procedure may ~~request~~ ask the court to refer the matter to the board. ~~Upon receipt of~~ On receiving a petition for referral the board shall proceed under the ~~provisions~~ of sections 105.72 to 105.79.

### 105.76 PETITION ABATES PROCEEDING UNTIL BOARD ACTS.

A filed petition abates the proceeding until there is a recommendation by the board or until 60 days have ~~elapsed~~ passed after conclusion of hearing before the board, whichever is earlier, unless the agency makes a written finding ~~in writing with a statement of stating~~ reasons that the public interest requires ~~immediate action by it~~ the board to act immediately. In all cases the board or its staff according to its rules decides whether the petition and the record made before the agency show an important question of water policy. If the decision on that question is negative it refuses to intervene, and the proceeding continues in the agency as though the petition had not been made. If the decision is affirmative and the board believes its intervention in the public interest is justified, it consents to intervene. Consent is shown by a brief statement in general terms of the questions of public policy it will consider.

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

**105.77 HEARING, DETERMINATION.**

As a petition is filed the board proceeds with ~~all~~ reasonable dispatch to hear, determine, and make its recommendations on the questions it has consented to consider. The hearings are so conducted that the board may be fully informed about all aspects of the public interest in those questions; ~~to the end that its recommendation will state in order to make~~ an impartial, scientific, and fully considered judgment. The recommendation of the board is its decision on the question of water policy considered by it. The ultimate question to which the board's recommendation is directed in all cases is the proper course of action to be followed by the agency in the proceeding in relation to questions of water policy considered by the board. The decision of the board is in the form of a written recommendation to the agency. It must recite controlling facts in ~~sufficient enough~~ detail to ~~apprise~~ inform the parties, the agency, and a reviewing court of the basis and reason ~~therefor~~ for the decision. In the proceeding and upon any judicial review the recommendation is evidence. A copy, certified, is competent evidence of the recommendation.

**105.78 CONSENT, NOTICE AND PROCEDURE.**

When a consent, notice, or recommendation is made by the board a copy is filed with the agency; ~~and such~~. The filing is notice thereof of the board's action. The board's rules may provide for a notice, in addition to ~~such~~ filing by mail, posting, publication, or otherwise, which it ~~deems~~ believes will practically ~~give information to inform~~ parties and interested persons of its actions. ~~For the purposes of carrying out the provisions of To carry out~~ sections 105.72 to 105.79, the chair of the board, or any board member thereof, ~~has the power to~~ may subpoena witnesses, ~~to administer oaths,~~ and ~~to compel the production of~~ books, records, and other evidence. Disobedience of ~~any such~~ a subpoena, or refusal to be sworn, or to answer as a witness, ~~shall be is~~ punishable as a contempt of the district court on complaint of the board, or any board member thereof, before the district court of the county where ~~such disobedience or refusal~~ it occurred. Witnesses receive the same fees and mileage as in civil actions. ~~All~~ Persons are sworn before testifying and the right to examine or cross-examine is the same as in civil actions. ~~All~~ Hearings are public, conducted by the board or ~~any an~~ authorized board member thereof, and ~~all~~ affected persons have the opportunity to be heard. The board provides a stenographer to take the testimony, and ~~all~~ proceedings at the hearings are recorded and preserved. ~~All~~ Hearings are conducted insofar as practicable in the same ~~manner way~~ as civil actions. ~~It is proper for the divisions of State government and the agencies thereof to may~~ may adopt opposite positions in respect ~~to on~~ the matter before the board when full advocacy will assist to disclose the public interest.

**105.79 FINDINGS BY BOARD.**

Within 60 days of the close of ~~any a~~ hearing the board makes its findings and recommendations based solely on the evidence adduced at the public hearing.

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



**105.81 PETITION; BOND; INVESTIGATION; REPORT; HEARING; ORDER.**

For the purpose of ~~conserving and making~~ To conserve and make more adequate use of our water resources, any person, public or municipal corporation, governmental subdivision, the state or any of its departments or agencies, the commissioner of natural resources, and the United States or any of its agencies, may petition the ~~county board in the case of a system lying wholly within one county or the district court in the case of a drainage system affecting two or more counties~~ for the installation of dams or other control works in ~~said~~ ditches drainage ditch systems to impound or divert waters for ~~any~~ beneficial use. The petition must be directed to the county board when a drainage system is wholly within one county and to the joint county board when the system affects two or more counties. ~~Said~~ The petition shall must contain the location of the installation, plans, and specifications for the proposed structure, and a map of the areas likely to be affected by the impoundment or diversion. The petitioner shall agree to be responsible for the cost of installation and construction of the structure. Upon filing of the petition, the petitioners shall file a bond as provided in sections 106A.205 and 106A.211. No bond ~~shall be~~ is required if the petition is filed by the state, any of its departments or agencies, the commissioner of natural resources, the United States or any of its agencies, and cities. ~~Said~~ The petition shall must also be accompanied by a permit from the commissioner of natural resources as required in sections 105.41 and 105.42.

On receipt of the petition, bond, and permit, if required, the board or court shall appoint an engineer to investigate the effect of the proposed installation and file a report of findings. Upon filing of the engineer's report, notice ~~shall~~ must be given and a public hearing held as provided in section 106A.261. If at this hearing it appears from the engineer's report and other evidence presented that ~~such~~ the installation will be of a public or private benefit and that it will not impair the utility of the ditch or deprive affected land owners of ~~the~~ its benefit ~~thereof~~, the board or court shall issue a permit authorizing its installation. Before installing or constructing ~~any~~ an impoundment or diversion, the petitioner shall obtain ~~such~~ rights-of-way and flowage easements from ~~all~~ owners of land to be affected ~~thereby~~ by it.

The order of the court modifying the ditch system ~~shall~~ must provide that ~~all~~ construction and ~~subsequent~~ later maintenance and repairs of the ditch modification ~~shall~~ must be done ~~and performed~~ by the petitioner without ~~any~~ cost to the owners of lands and properties previously within the drainage system.

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

## ARTICLE 3

Section 1. Minnesota Statutes 1986, chapter 112, is amended to read:

**112.34 WATERSHED ACT; ~~DECLARATION OF POLICY, CITATION.~~**

Subdivision 1. **POLICY.** ~~In order to carry out conservation of~~ To conserve the natural resources of the state through land ~~utilization use,~~ flood control and other needs ~~upon on~~ on sound scientific principles for the protection of the public health and welfare and the provident use of the natural resources, ~~the establishment of a public corporation, as an agency of the state for the aforesaid purposes, is provided in, may be established under~~ this chapter ~~of Minnesota Statutes.~~ This chapter ~~shall must~~ be construed and administered ~~so as to make effective these purposes effective.~~

Subd. 2. **CITATION.** This chapter ~~shall be known and~~ may be cited as the "Minnesota watershed act."

**112.35 DEFINITIONS.**

Subdivision 1. **APPLICABILITY.** ~~For the purposes of this chapter~~ The terms ~~defined in this section~~ chapter have the meanings ~~ascribed to~~ given them in this section.

Subd. 2. **PERSON.** "Person" includes firm, copartnership, association, or corporation but does not include public or political subdivision.

Subd. 3. **PUBLIC CORPORATION.** "Public corporation" means a county, town, school district, or a political division or subdivision of the state. Public corporation, except where the context clearly indicates otherwise, does not mean a watershed district.

Subd. 4. **BOARD.** "Board" means the Minnesota water resources board established by section 105.71.

Subd. 5. **MANAGERS.** "Managers" means the board of managers of a watershed district.

Subd. 6. **PUBLICATION.** "Publication" means publication once a week for two successive weeks in accordance with section 645.11.

Subd. 7. **PUBLIC HEALTH.** "Public health" ~~includes~~ means any act or thing tending to improve the general sanitary conditions of the district.

Subd. 8. **PUBLIC WELFARE.** "Public welfare," "general welfare," and "public benefit" ~~include~~ mean any act or thing tending to improve or benefit or contribute to the safety or well-being of the general public or benefit the inhabitants of the district.

Subd. 9. **COUNTY AUDITOR.** "County auditor" means the county auditor of any county affected by a watershed district.

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Subd. 10. **COURT ADMINISTRATOR.** "Court administrator" means the court administrator of the district court of the county in which ~~any~~ a judicial proceeding concerning a district is pending.

Subd. 11. **ENGINEER.** "Engineer" means the engineer designated by the managers to act as engineer.

Subd. 12. **APPRAISERS.** "Appraisers" means the persons appointed by the managers of the district to ascertain and report benefits and damages arising from proposed work.

Subd. 13. **DIRECTOR.** "Director" means the director of the division of waters; ~~soils and minerals~~ of the department of natural resources.

Subd. 14. **COMMISSIONER.** "Commissioner" means the commissioner of natural resources.

Subd. 15. **PETITION.** "Petition" means an initiating petition for "work", and may consist of one or more petitions ~~therefor.~~

Subd. 16. **NOMINATING PETITION.** "Nominating petition" means an initiating petition for the creation of a watershed district, and may consist of one or more petitions ~~therefor.~~

Subd. 17. **HEARING.** "Hearing" means a hearing conducted by either the managers or the board, which, if conducted by the board ~~pursuant to~~ under its rules ~~promulgated by it,~~ may be formal; ~~provided, however, that.~~ All interested parties ~~shall~~ must be given a reasonable opportunity to be heard.

Subd. 18. **INTERESTED PARTY.** "Interested party" means any public corporation or any person ~~having~~ with an interest in the subject ~~matter~~ pending or involved; ~~and shall include.~~ "Interested party" includes the director or any agency of government.

Subd. 19. **PROJECT.** "Project" or "projects" means any construction, maintenance, repairs, or improvements of a watershed district including planning and development to accomplish ~~any of the purposes~~ a purpose for which a district is organized.

Subd. 20. **NOTICE BY MAIL; MAILED NOTICE.** "Notice by mail" or "mailed notice" means a notice mailed and addressed to each person entitled to receive notice if the address ~~be~~ is known to the auditor or court administrator, or can be ~~ascertained by inquiry~~ obtained at the office of the county treasurer of the county ~~wherein~~ where the affected land or property is located.

Subd. 21. **RESIDENT OWNER; RESIDENT FREEHOLDER.** "Resident owner" or "resident freeholder" means the owner of land or the contract purchaser, and who resides in the state.

Subd. 22. **METROPOLITAN AREA.** "Metropolitan area" has the meaning given in section 473.121, subdivision 2.

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## 112.36 ESTABLISHMENT OF DISTRICTS.

Subdivision 1. **GENERAL POWER.** The board is hereby vested with has jurisdiction, power, and authority, upon filing of a nominating petition, to establish a watershed district and define ~~and fix~~ the its boundaries thereof. All areas ~~of which shall included in the district must~~ be contiguous and ~~which.~~ The district may be entirely within or partly within and partly ~~without~~ outside any county; ~~and.~~ The district may include the whole or ~~any~~ part of any watershed ~~or watersheds~~ within the discretion of the board ~~and.~~ The district may include the whole or ~~any~~ part of one or more counties; ~~and to appoint.~~ The board appoints the first ~~board~~ of managers thereof ~~of the watershed district,~~ as ~~herein~~ provided in this chapter.

Subd. 2. **PURPOSES OF DISTRICT.** A watershed district may be established for any ~~or all~~ of the following conservation purposes:

- (1) control or ~~alleviation of~~ lessen damage by flood waters;
- (2) ~~improvement of~~ improve stream channels for drainage, navigation, and any other public purpose;
- (3) ~~reclaiming~~ reclaim or ~~filling~~ fill wet and overflowed lands;
- (4) ~~providing~~ provide water supply for irrigation;
- (5) ~~regulating~~ regulate the flow of streams and ~~conserving the~~ conserve their waters thereof;
- (6) ~~diverting~~ divert or ~~changing~~ change watercourses in whole or ~~in~~ part;
- (7) ~~providing~~ provide and ~~conserving~~ conserve water supply for domestic, industrial, recreational, agricultural, or other public use;
- (8) ~~providing~~ provide for sanitation and public health and ~~regulating~~ regulate the use of streams, ditches, or watercourses for ~~the purpose of disposing~~ disposal of waste;
- (9) repair, improve, relocate, modify, consolidate, and abandon, in whole or ~~in~~ part, drainage systems within a watershed district;
- (10) ~~imposition of~~ impose preventive or remedial measures for ~~the to~~ control or ~~alleviation of~~ reduce land and soil erosion and siltation of watercourses or bodies of water affected ~~thereby~~ by erosion;
- (11) ~~regulating~~ regulate improvements by riparian landowners of the beds, banks, and shores of lakes, streams, and marshes by permit or otherwise ~~in order~~ to preserve ~~the same~~ them for beneficial use;
- (12) ~~providing~~ provide for the generation of hydroelectric power;
- (13) ~~protecting~~ protect or ~~enhancing~~ enhance the quality of water in watercourses or bodies of water; and

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(14) ~~providing for the protection of~~ protect groundwater and ~~regulating groundwater regulate~~ its use to preserve ~~groundwater~~ it for beneficial use.

#### 112.37 PROCEDURE FOR ESTABLISHMENT.

Subdivision 1. **SIGNERS OF PETITION.** ~~To begin~~ proceedings for the establishment of ~~to establish~~ a watershed district ~~shall be initiated by the filing of,~~ a nominating petition ~~must be filed~~ with the secretary of the board. The nominating petition ~~shall~~ must be signed by any one of the following groups:

- (1) at least one-half of the counties within the proposed district; or
- (2) by a county or counties having at least 50 percent of the area within the proposed district; or
- (3) by a majority of the cities within the proposed district; or
- (4) ~~by~~ at least 50 resident freeholders of the proposed district, ~~exclusive of the~~ except resident freeholders within the corporate limits of ~~any~~ a city on whose behalf the authorized official has signed the petition.

Subd. 1a. **CONTENTS OF PETITION.** The nominating petition ~~shall set forth the following~~ must include:

- (1) the name of the proposed district and a statement in general terms setting forth ~~the~~ its territory to be included in the district;
- (2) the necessity for the district, the contemplated improvements ~~within the district in it,~~ and the reasons why the district and the contemplated improvements would be conducive to public health and public welfare, or accomplish any of the ~~purposes~~ purpose of this chapter;
- (3) the number of ~~managers~~ manager positions proposed for the district ~~shall be not less than three nor more than nine, and shall be selected from a list of nominees containing at least twice the number of managers to be selected. No manager shall be a public officer of the county, state, or federal government, provided that a soil and water conservation supervisor may be a manager and a list of nominees;~~
- (4) a map of the proposed district; and;
- (5) a request for the establishment of the district as proposed.

At least three but not more than nine manager positions must be proposed. Managers must be chosen from a list of nominees containing at least twice the number to be chosen. A manager must not be a public officer of the county, state, or federal government, except that a soil and water conservation supervisor may be a manager.

Subd. 1b. **PERSONS SERVED WITH PETITION.** The petitioners shall ~~cause to be~~ have a copy of the petition served upon on the county auditor ~~or~~

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auditors of the counties affected by the proposed district, the commissioner, and the director; ~~a copy of the nominating petition, and.~~ Proof of service shall must be attached to the original petition; ~~to be~~ and filed with the secretary of the board.

Subd. 2. COUNTY AUDITOR'S SEARCH OF TAX RECORDS. ~~Upon receipt of~~ On receiving a copy of ~~such~~ the nominating petition the county auditor ~~or~~ auditors, as the case may be, shall determine whether ~~or not~~ the petitioners are freeholders; ~~which.~~ The determination shall must be made ~~upon~~ from the tax records, which shall be are prima facie evidence of ownership; ~~and from which.~~ The auditor shall certify a the determination to the board.

Subd. 3. DIRECTOR'S MAP AND REPORT. ~~Upon receipt of~~ On receiving a copy of the nominating petition, the director shall:

- (1) acknowledge its receipt ~~thereof~~ to the board;
- (2) prepare a preliminary watershed map of the proposed district showing the its natural boundaries and subdivisions ~~thereof~~;
- (3) prepare a preliminary report based ~~upon~~ on the nominating petition and other available data, stating an opinion ~~as to~~ about the desirability of organizing the district, and submit the report to the board with ~~such~~ any recommendation as the director ~~may deem~~ considers proper; ~~which.~~ The report shall must be submitted to the board within 30 days from the date of the service of the petition upon the director, unless ~~such~~ the board extends the time is extended by the board.

Subd. 5. PETITION CORRECTIONS; CONSOLIDATION. No petition containing the requisite number of signatures or petitioners or signed by the requisite number of counties or cities shall be void or dismissed on account of ~~any defects therein, but the board shall, at any time prior to.~~ Before the close of hearing, the board shall permit the petition to be amended in form and substance to ~~conform to the facts by correcting~~ correct any errors in the description of the territory or ~~by supplying any other defects therein.~~ Several similar petitions, or duplicate copies of the same petition, for the establishment of the same district may be filed together and ~~altogether~~ be regarded as one petition. All petitions filed ~~prior to~~ before the hearing ~~hereinafter~~ provided in section 112.38 shall be considered by the board as part of the original petition.

After a petition has been filed, no petitioner may withdraw ~~therefrom~~ except with from it without the written consent of all other petitioners filed with the water resources board.

Subd. 7. METRO AREA DISTRICT; MANAGERS. ~~The managers of~~ In a district wholly within the metropolitan area shall ~~number not less than~~ there must be at least five ~~nor~~ and not more than nine managers. ~~The managers shall~~ They must be selected chosen to fairly represent by residence the various hydrologic areas within the district. They shall must be selected chosen from a list of

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persons nominated jointly or severally by statutory and home rule charter cities and towns having territory within the district. The list ~~shall~~ must contain at least three nominees for each position to be filled. If the cities and towns fail to nominate in accordance with this subdivision, the managers ~~shall~~ must be ~~select-~~ ed chosen as provided in subdivision 1a.

#### 112.38 HEARING; NOTICE.

When it ~~has been made to appear~~ appears to the board that a sufficient nominating petition has been filed, the board shall, within 35 days thereafter, ~~by its order, fix a time and place, within the limits of the proposed district,~~ for a hearing ~~thereon; provided that on it.~~ The place of hearing must be within the district limits. If there is ~~not a~~ no suitable place within the proposed district, the board may select a place within the limits of the ~~county or~~ counties in which publication of the notice of the hearing is required. The board must publish the hearing shall be given by the board by publication published once each week for two successive weeks ~~prior to~~ before the date of hearing. The notice must be published in a legal newspaper, ~~published in the county or~~ counties in which a part or all of the affected waters and lands are located. The last publication ~~shall~~ must occur at least ten days before the hearing. Notice ~~shall~~ must also be mailed by the board to the county auditor and to the chief executive official of any municipality affected, ~~which.~~ The mailed notice shall must contain the following:

- (1) a statement that a nominating petition has been filed with the board, and a copy ~~thereof~~ filed with the county ~~auditor~~ auditors of the ~~county or~~ counties affected;
- (2) a general description of the purpose of the contemplated improvement, and the territory to be included in the proposed district;
- (3) the date, time, and place of hearing; and
- (4) a statement that all persons affected ~~thereby~~ or interested ~~therein~~ may appear and be heard.

#### 112.39 ACTION OF BOARD UPON PETITION.

Subdivision 1. **HEARING.** At the ~~time and place fixed for the hearing on~~ the nominating petition, all persons interested in or affected by the proposed watershed district ~~shall~~ must be given an opportunity to be heard. The board may continue the hearing from time to time as it ~~may deem~~ finds necessary.

Subd. 2. **WITNESSES; PROCEEDINGS.** ~~For the purpose of carrying out~~ To carry out the provisions of this chapter and to hold hearings, the chair of the board, or any board member ~~thereof,~~ shall have the power to may subpoena witnesses, ~~to~~ administer oaths, and ~~to~~ compel the production of books, records, and other evidence. Witnesses shall receive the same fees and mileage as in civil actions. All persons ~~shall~~ must be sworn before testifying, ~~and.~~ The right to

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examine and cross-examine witnesses ~~shall be~~ is the same as in civil actions. The board shall ~~cause~~ make a record of all proceedings before it ~~to be made and filed~~ file it with the secretary of the board. Copies ~~thereof of the record~~ may be obtained upon such terms and conditions as the board shall prescribe ~~prescribes~~.

Subd. 3. **FINDINGS AND ORDER.** Upon the hearing if it appears to the board that the establishment of a district as ~~prayed~~ asked for in the nominating petition would be for the public welfare and public interest, and ~~that would serve~~ the purpose of this chapter ~~would be subserved by the establishment of a watershed district~~, the board shall, by its findings and order, establish a watershed district and give it a corporate name by which, in all proceedings, it shall thereafter be known, and upon filing. When a certified copy of said the findings and order is filed with the secretary of state ~~such, the~~ watershed district ~~shall become~~ becomes a political subdivision of the state and a public corporation, with the authority, power, and duties ~~as~~ prescribed in this chapter.

Subd. 4. **FINDINGS AND ORDER; LATER CHANGES.** The findings and order of the board shall must name the first board of managers of the district ~~whose~~. Their term of office shall be for one year, and until their successors are appointed and qualified, ~~and shall~~. The finding and order must designate the place within the district where the principal place of business of the district ~~shall be~~ is located, and define the boundaries of the district, ~~which~~.

The boundaries may be changed upon a by petition ~~therefor~~. The petition must be signed and as provided in section 112.37, subdivision 1 or signed by the board of managers of a watershed district upon after passage of a resolution duly passed authorizing the same petition, and a notice and hearing thereon on it, in the same manner way as in the original proceeding. Whenever When a petition for a boundary change involves a common boundary of two or more watershed districts the board may determine in which district the hearing ~~shall~~ must be held.

The managers may change the principal place of business ~~may be changed~~ within the district ~~by the managers upon by passing a resolution duly passed authorizing the same, with a notice change and conducting a hearing to be conducted by the managers. The managers must publish notice of such the hearing shall be given by the managers of publication published once each week for two successive weeks prior to before the date of hearing in a legal newspaper, published in the county or counties in which a part or all of the affected waters and lands are located~~. The last publication ~~shall occur~~ must be at least ten days before the hearing. Notice of hearing ~~shall~~ must be mailed to the county auditor of each county affected ten days before the hearing. After the hearing the managers may order the change in place of business ~~which shall be~~. The change is effective upon the filing of when a certified copy thereof of the order is filed with the secretary of state and the secretary of the board.

Subd. 5. **COPIES MAILED.** A copy of the findings and order shall, at the time of filing a When the certified copy thereof of the board's findings and order

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is filed with the secretary of state, a copy must be mailed to the county auditor of each county affected, the commissioner, and director.

Subd. 6. **ORDER TO DISMISS.** If the board ~~should determine finds~~ that the establishment of ~~a the~~ district ~~as prayed for in the nominating petition~~ would not be for the public welfare and public interest, and would not serve the purpose of this chapter, the board shall, by its decision, dismiss the proceedings. A copy of ~~such the~~ dismissal order shall must be ~~forthwith~~ immediately mailed to the county auditor of each county affected, ~~and to~~ the commissioner, and director.

#### 112.40 RULES OF PRACTICE.

The board shall adopt rules of practice for its proceedings and hearings; ~~not inconsistent with the provisions of this chapter and other provisions of law, as it deems finds~~ necessary and expedient. The rules must be consistent with this chapter and other law.

#### 112.401 BOARD HEARINGS.

Subdivision 1. **PROCEDURE.** (a) A rulemaking hearing ~~shall~~ must be conducted under chapter 14.

(b) A hearing must be conducted as a contested case under ~~the provisions of~~ chapter 14 if the hearing is:

- (1) in a proceeding to establish or terminate a watershed district; or
- (2) of an appeal under section 112.801.

(c) Notwithstanding chapter 14, other hearings under this chapter, except hearings under paragraphs (a) and (b), ~~shall~~ must be conducted by the board under this section. The board may refer the hearing to one or more members of the board, or an administrative law judge to hear evidence and make findings of fact and report them to the board.

Subd. 2. **PROCEDURE FOR NONCONTROVERSIAL PLANS OR PETITIONS.** (a) If the board finds that a watershed plan or petition that would be given a hearing under subdivision 1, paragraph (c), is noncontroversial, the board may proceed under this subdivision.

(b) The board must give notice that the plan or petition has been filed. The notice must be made:

- (1) by publication once each week for two successive weeks in a legal newspaper in each county affected;
- (2) by mail to the county auditor of each county affected; and
- (3) by mail to the chief official of each home rule charter and statutory city affected.

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(c) The notice:

- (1) must describe the actions proposed by the plan or petition;
- (2) invite written comments on the plan or petition for consideration by the board;
- (3) state that a person who objects to the actions proposed in the plan or petition may submit a written request for hearing to the board within 30 days of the last publication of the notice of filing of the plan or petition; and
- (4) state that if a timely request for hearing is not received, the board may make a decision on the plan or petition at a future meeting of the board.

(d) If one or more timely requests for hearing are received, the board must hold a hearing on the plan or petition.

Subd. 3. **APPEAL.** A party that is aggrieved by the decision made by the order of the board may appeal the order to the district court.

#### 112.41 PERPETUAL EXISTENCE.

A district created under ~~the provisions~~ of this chapter ~~shall have~~ has perpetual existence ~~with power, but only.~~ To the extent necessary for lawful conservation purposes, ~~to it may:~~

- (1) sue and be sued; ~~to;~~
- (2) incur debts, liabilities, and obligations; ~~to;~~
- (3) exercise the power of eminent domain; ~~to;~~
- (4) provide for assessments; ~~and to;~~
- (5) issue certificates, warrants, and bonds ~~and;~~
- (6) ~~do and perform all acts herein~~ do anything expressly authorized; in this chapter; ~~and all other acts~~
- (7) do anything else necessary and proper ~~for carrying out and exercising the~~ to exercise its express powers expressly vested in it.

#### 112.411 PROCEDURE FOR TERMINATION.

Subdivision 1. **PETITION CONTENTS.** Proceedings ~~for the termination~~ of to terminate a watershed district shall be initiated only by the filing of a petition with the secretary of the board; ~~which.~~ The petition ~~shall~~ must be signed by ~~not less than at least~~ 25 percent of the resident freeholders of the district. ~~Such~~ The petition ~~shall~~ must state that the existence of the district is no longer in the public welfare and public interest and that it is not needed to accomplish the purposes of the Minnesota watershed act.

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

The petitioners shall ~~cause to be~~ have a copy of the petition served upon on the county ~~auditor or~~ auditors of the counties affected a copy of said petition ~~and~~. Proof of service thereof shall must be attached to the original petition, to be filed with the secretary of the board.

Subd. 2. **DETERMINING STATUS OF SIGNERS.** Upon receipt of On receiving a copy of ~~such~~ the petition the county ~~auditor or~~ auditors shall determine whether ~~or not~~ the petitioners are resident freeholders within the district, ~~which~~. The determination shall must be made; ~~upon~~ from the tax records, which shall be are prima facie evidence of ownership; ~~and~~. From which them the auditor shall certify the determination to the board.

Subd. 3. **BOND.** At the time of filing When the petition is filed or before notice of a hearing ~~thereon~~ on it is given, the petitioners shall file a bond ~~shall be~~ filed by the petitioners with the board, to be approved by it and in such sum as the board may determine; conditioned that the petitioners; an amount it determines. The bond must state that in case the petition is dismissed or denied, the petitioners will pay all costs and expenses ~~therefrom~~.

Subd. 4. **HEARING; ORDER TO TERMINATE.** When it appears to the board that a sufficient petition has been filed, the board shall, within 35 days thereafter, ~~by its order fix~~ a time and place, within the district, for a hearing ~~thereon~~ on the petition. The provisions of this ~~section~~ chapter relating to notice and conduct of a hearing upon a nominating petition shall govern.

If the board ~~should determine~~ finds that the existence of the district is no longer in the public welfare and public interest and that it is not needed to accomplish the purpose of the Minnesota watershed act, the board shall by its findings and order terminate the district. Upon filing When a certified copy of ~~said~~ the findings and order is filed with the secretary of state ~~such~~, the district shall ~~cease~~ ceases to be a political subdivision of the state.

Subd. 5. **WHEN PETITIONS MAY BE CONSIDERED.** The board shall not entertain a petition for termination of a district within five years from the date of its formation ~~nor shall it~~. The board shall not make determinations ~~pursuant to~~ on petitions in accordance with ~~provisions of~~ this section; more often than once in five years.

#### 112.42 MANAGERS; ORGANIZATION, APPOINTMENT OF SUCCESSORS.

Subdivision 1. **OATH.** At the time of filing When a certified copy of the findings and order establishing a district is filed with the secretary of state, the board shall ~~cause personal service of~~ have a copy thereof to be made ~~upon of~~ them personally served on the managers named therein. Within ten days after ~~such~~ the personal service has been made, the managers shall meet at the ~~designated~~ named principal place of business of the district ~~and~~. They shall then take and ~~subscribe~~ sign the oath defined in Minnesota Constitution, article V, section 6; ~~which~~. The signed oath as ~~subscribed~~ shall must be ~~forthwith~~ immediately filed with the secretary of the board.

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

Subd. 1a. **BOND.** Each manager shall ~~thereupon then~~ file with the board a bond in the sum of \$1,000, the premium to be paid by the district for the faithful performance of the manager's duties. The board may increase the amount of such the bond may be increased by the board if in the judgment of the board it becomes judges the increase necessary. The managers shall ~~thereupon then~~ organize by electing one of their number as president, ~~another one~~ as secretary, and ~~another one~~ as treasurer, and provide the ~~necessary~~ books, records, furniture, and equipment needed for the conduct and the transaction of their official duties.

In lieu of the individual bonds ~~required to be furnished by managers in a watershed district, the managers may give~~ a schedule or position bond or undertaking ~~may be given by the managers of the watershed district or.~~ Alternatively, a single corporate surety fidelity, schedule or position bond or undertaking may be given covering all managers and employees of the watershed district, including officers and employees required by law to furnish an individual bond or undertaking, ~~may be furnished in the respective amounts fixed by law or by the person or board authorized to fix the amounts.~~ The bond or undertaking must be conditioned substantially as provided in section 574.13.

Subd. 2. **SEAL; RECORD.** The ~~board~~ of managers shall adopt a seal and ~~shall efficiently~~ keep a record of all proceedings, minutes, certificates, contracts, bonds of its employees, and ~~all~~ other business transacted or action taken by the board; ~~which.~~ The record shall must be, at all reasonable times, open to inspection by the property owners within the district, and ~~all~~ other interested parties.

Subd. 3. **SUCCESSORS TO MANAGERS TERMS; SUCCESSOR APPOINTMENTS; VACANCIES.** (a) At least 30 days ~~prior to before~~ the expiration of the term of office of the first managers named by the board, the county commissioners of each county affected shall meet and ~~proceed to~~ appoint successors to the first managers. If the nominating petition ~~that initiated for the~~ district originated from a majority of the cities ~~within in~~ the district, or if the district is wholly within the metropolitan area, the county commissioners shall appoint the managers from a list of persons nominated jointly or severally by the ~~townships towns~~ and municipalities within the district. The list ~~shall must~~ contain at least three nominees for each position to be filled. Managers for a district wholly within the metropolitan area ~~shall must~~ be appointed to fairly represent by residence the various hydrologic areas within the district. ~~It shall~~

(b) The list of nominees must be submitted to the affected county board at least 60 days ~~prior to before~~ the expiration of the term of office. If the list is not submitted within 60 days prior to the expiration of the term of office, the county commissioners shall select the managers from eligible individuals within the district. The county commissioners shall ~~at least 30 days before the expiration of the term of office, of any managers~~ meet and appoint the successors at least 30 days before any manager's term expires. If the district affects more than one county, distribution of the managers among the counties affected shall be as directed by the board.

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

(c) Ten years after the order of establishment, ~~upon petition of the county board of commissioners of any county affected by the district, the board after public hearing thereon, may redistribute the managers among the counties if redistribution is in accordance with the policy and purposes of this chapter. No~~ The board may take this action upon petition of the county board of commissioners of any county affected by the district and after public hearing on the petition. A petition for the redistribution of managers ~~shall~~ must not be filed with the board more ~~often~~ than once in ten years.

(d) ~~The term of office of each manager, If the number does not exceed of manager positions in the board's findings and order establishing the district is three, the terms of office of the first county-appointed managers shall be one for a term of one year, one for a term of two years, and one for a term of three years. If the number of managers consist of is five members, one manager's term shall be for a term of one year, two for a term of managers' terms shall be two years, and two for a term of managers' terms shall be three years. If the board of managers consists of more than five members, the managers shall be appointed so that as nearly as possible one-third serve terms of one year, one-third serve terms of two years, and one-third serve terms of three years. If the district affects more than one county, the board shall direct the distribution of the one, two and three year terms among the affected counties. Thereafter, the term of office for each manager shall must be for a term of three years, and until a successor is appointed and qualified. If the district affects more than five counties, in order to provide for the orderly distribution of the managers, the board may determine and identify the manager areas within the territory of the district and select the appointing county board of commissioners for each manager's area. Any vacancy occurring in an office of a manager shall must be filled by the appointing county board of commissioners.~~

(e) A record of all appointments made under this subdivision ~~shall must~~ be filed with the county auditor of each county affected, with the secretary of the board of managers, and with the secretary of the ~~water resources board.~~ No A person ~~shall be appointed as a manager who is not must be~~ a voting resident of the district and ~~none shall must not~~ be a public officer of the county, state, or federal government, ~~provided that except that~~ a soil and water conservation supervisor may be a manager.

Subd. 3a. **RESTRUCTURING BOARDS OF OLD DISTRICTS.** The board shall restructure the boards of managers of districts established before the effective date of Laws August 2, 1982, chapter 509 and located wholly within the metropolitan area to ensure compliance with the requirements of sections subdivision 3 and section 112.37, subdivision 7 and 112.42, subdivision 3. The board shall request recommendations from the district and the affected local government units. Additional managers, if any, ~~shall must~~ be appointed by the county designated by the board, to terms designated by the board, at the time of and in the manner provided for the next regular appointment of successors to managers of the district.

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

Subd. 4. **VACANCIES.** ~~The provisions of Section 351.02, shall apply~~ applies to members of the board of managers.

Subd. 5. **PER DIEM.** The compensation of managers for meetings and ~~for performance of other necessary duties shall~~ must not exceed \$50 per day. Managers ~~shall be~~ are entitled to reimbursement for ~~all~~ traveling and other expenses necessarily incurred in the performance of official duties.

Subd. 6. **BUSINESS RULES.** The managers shall adopt bylaws and rules ~~not inconsistent~~ consistent with this chapter ~~for the administration of the~~ to conduct district business and affairs of the district. Rules adopted under this subdivision are not subject to ~~the provisions of section 112.43, subdivision 1c.~~

Subd. 7. **MEETINGS.** The managers shall meet annually and at ~~such~~ other times ~~as may be necessary for the transaction of~~ to do the business of the district. If public facilities are not available for a district's principal place of business within the district, the board shall ~~determine and designate~~ name the nearest suitable public facility as the district's principal place of business. A meeting may be called at any time upon the request of any manager; ~~and.~~ When so requested the secretary of the district shall mail a notice of ~~such~~ the meeting to each member at least eight days ~~prior thereto~~ before the meeting.

#### 112.421 PROCEDURE FOR INCREASING NUMBER OF MANAGERS.

Subdivision 1. **PETITION AND NOTICE.** A petition must be filed with the secretary of the board to initiate proceedings to increase the number of managers of a watershed district. The petition must be signed as provided in section 112.37, subdivision 1, or signed by the ~~board of~~ managers of the watershed district. When the petition is filed, the board shall order a hearing to be held on the petition. Notice of hearing must be given in the same manner as a nominating petition.

Subd. 2. **HEARING.** If the board determines at the hearing that an increase in the number of managers would serve the public welfare, public interest, and the purpose of this chapter, the board shall increase the number of managers. If the district affects more than one county, the board, by order, shall direct the distribution of the managers among the affected counties.

#### 112.43 MANAGERS; POWERS, DUTIES.

Subdivision 1. The managers, ~~in order to give effect to the purposes of~~ carry out this chapter, may:

(1) Make necessary surveys or ~~utilize~~ use other reliable surveys and data and develop projects to accomplish the purposes for which the district is organized and may initiate, undertake, and construct projects not required to be instituted by a petition under section 112.47.

(2) Cooperate or contract with any state or subdivision ~~thereof~~ of a state or federal agency or private or public corporation or cooperative association.

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(3) Construct, clean, repair, alter, abandon, consolidate, reclaim, or change the course or terminus of any public ditch, drain, sewer, river, watercourse, natural or artificial, within the district.

(4) Acquire, operate, construct, and maintain dams, dikes, reservoirs, water supply systems, and appurtenant works.

(5) Regulate, conserve, and control the use of water within the district.

(6) Acquire by gift, purchase, or the right of eminent domain necessary real and personal property. The district may acquire ~~such~~ property ~~without~~ outside the district where necessary for a water supply system.

(7) Contract for or purchase ~~such~~ insurance ~~as~~ the managers ~~deem~~ find necessary for the protection of the district.

(8) Establish and maintain devices for acquiring and recording hydrological data.

(9) Enter into ~~all~~ contracts of construction authorized by this chapter.

(10) Enter ~~upon~~ lands ~~within~~ inside or ~~without~~ outside the district to make surveys and investigations to accomplish the purposes of the district. The district ~~shall be~~ is liable for actual damages resulting ~~therefrom~~ from entry.

(11) ~~To~~ Take over when directed by the ~~district court~~ joint county ditch authority or county board all ~~judicial and~~ joint county or county drainage systems within the district, together with the right to repair, maintain, and improve the ~~same~~ them. ~~Whenever such judicial~~ When a joint county or county drainage system is taken over in whole or in part, the same, it becomes part of the works of the district to the extent so taken over; ~~shall become a part of the works of the district~~.

(12) Provide for sanitation and public health and regulate the use of streams, ditches, or watercourses ~~for the purpose of disposing to dispose~~ of waste and ~~preventing prevent~~ pollution.

(13) Borrow funds from ~~the following~~: (a) any agency of the federal government; (b) any state agency; (c) any county in which the district is located in whole or in part; or (d) a financial institution authorized under chapter 47 to do business in this state. A county board may lend the amount requested by a district. No district may have more than a total of \$50,000 in loans from counties and financial institutions under this clause outstanding at any time.

(14) Prepare a flood plain map of the lands of the district ~~which that~~ are in the flood plain of lakes and watercourses; ~~which~~. The map shall must be made available to the counties and local municipalities for inclusion in flood plain ordinances ~~and shall be in conformity with~~. It must conform to state rules setting standards ~~and criteria~~ for designation of flood plain areas.

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

(15) Prepare an open space and greenbelt map of the lands of the district ~~which that~~ should be preserved and included in the open space and greenbelt land areas of the district; ~~which.~~ The map shall must be made available to the counties and local municipalities for inclusion in flood plain and shoreland ordinances.

(16) Appropriate necessary funds to provide for membership in a state association of watershed districts ~~which has as its whose~~ purpose ~~the betterment and improvement of~~ is to improve watershed governmental operations.

(17) ~~To~~ Control the use and development of land in the flood plain and the greenbelt and open space areas of the district; To do this, the managers may adopt, amend, or repeal rules to control encroachments, the changing of land contours, the placement of fill and structures, the placement of encumbrances or obstructions and ~~to~~ require the landowner to remove fill, structures, encumbrances, or other obstructions and ~~to~~ restore the previously existing land contours and vegetation. The managers may by rule provide a procedure ~~whereby~~ by which the district can do the work required and assess ~~the its~~ cost ~~thereof~~ against the affected property as a special assessment. The rules ~~shall be applicable~~ apply only in the absence of county or municipal ordinances ~~for the regulation of these~~ regulating the items set forth in this clause. The rules ~~shall~~ must be adopted in accordance with subdivision 1c.

Subd. 1a. **NOTICE TO CITY.** ~~No~~ A resolution or rule approved by the managers after August 1, 1978, ~~which that~~ affects land or water within the boundaries of a home rule charter or statutory city ~~shall be~~ is not effective within the city's boundaries ~~prior to notifying until~~ the governing body of the city is notified.

Subd. 1b. **METROPOLITAN WATERSHED DISTRICTS.** A watershed district located wholly within the metropolitan area ~~shall have~~ has the duties and ~~authorities provided~~ powers in sections 473.875 to 473.883. Notwithstanding any contrary provision of subdivision 1, a watershed district located wholly within the metropolitan area ~~shall have authority to~~ may regulate the use and development of land only under the conditions specified in section 473.877, subdivision 1, clause (c).

Subd. 1c. **DISTRICT RULES.** Each district shall adopt rules to accomplish the purposes of this chapter and to implement the powers of the managers. Rules of the district ~~shall~~ must be adopted or amended by a majority vote of the ~~board of~~ managers, after public notice and hearing. They ~~shall~~ must be signed by the secretary of the board of managers and ~~shall be~~ recorded in the ~~board's~~ district's official minute book. For each county of the district the ~~board~~ managers shall publish a notice of any hearing or adopted rules in one or more legal newspapers published in the county and generally circulated in the district, and ~~shall file any~~ adopted rules with the county recorder of each county affected. A copy of the rules ~~shall~~ must be mailed by the ~~board~~ managers to the governing body of each municipality affected.

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



Any ordinance of a district in effect on March 23, 1982 shall ~~remain,~~ remains in full force and effect until the district adopts rules pursuant to under this subdivision.

Subd. 2. **ENFORCEMENT POWERS.** The district court may enforce by injunction or other appropriate order ~~the provisions of sections 112.37 112.34 to 112.801 112.89~~ and any rule ~~or regulation~~ adopted or order issued by the managers ~~thereunder~~ under them.

Subd. 3. **BUSINESS REPORT.** The managers shall annually make and file a report of the financial conditions of the district, the status of all projects ~~therein in the~~ district, the business transacted by the district, other matters affecting the interests of the district, and a discussion of the managers' intentions for the succeeding year. Copies of the report shall must be ~~transmitted sent~~ to the secretary of ~~state water resources~~ the board, the commissioner, and the director within a reasonable time.

Subd. 4. **BOARD REVIEW OF MANAGERS.** The exercise of ~~said the~~ managers' powers by the managers shall at all times be is subject to review by the board as ~~herein~~ provided in this chapter.

#### 112.431 DRAINAGE IMPROVEMENTS.

Subdivision 1. **FINDINGS.** The legislature finds that because of urban growth and development in the metropolitan area problems arise for the improvement and repair of drainage systems which were originally established for the benefit of land used for ~~agricultural purposes and that agriculture~~. The procedure for the improvement and repair of drainage systems now in the metropolitan area should be simplified to more adequately and economically improve and repair drainage systems.

Subd. 2. **DEFINITIONS.** (a) ~~For the purpose of this section~~ The terms defined in this ~~subdivision~~ section have the meanings ~~ascribed to~~ given them in this subdivision.

(b) "Drainage system" means a ditch as defined by section 106A.005, subdivision 11.

(c) "Watershed district" means any watershed district established ~~pursuant to the provisions of~~ under this chapter, wholly or partially in a metropolitan county.

(d) "Metropolitan county" means any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.

(e) "Metropolitan area" means the combined area of the metropolitan counties.

Subd. 3. **DRAINAGE IMPROVEMENTS.** With the concurrence of the governing bodies of the home rule charter or statutory cities and the town ~~board~~

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boards of the towns where the drainage system is located, the ~~board~~ of managers of a watershed district ~~in which~~ where there ~~exists~~ is a drainage system ~~shall have the power to~~ may improve and repair any drainage system transferred to the watershed district ~~pursuant to~~ under section 112.65, by conforming to sections 429.031; 429.041, subdivisions 1 and 2; 429.051; 429.061 and 429.071.

Subd. 4. **ALTERNATIVE POWER.** With the concurrence of the governing bodies of the home rule charter or statutory cities and the town boards of the towns where the drainage system is located, the managers ~~in their discretion~~ may improve and repair a drainage system under the power granted to them elsewhere in this chapter.

Subd. 5. **APPEAL.** ~~Any~~ A person aggrieved by an order for improvement or repair by the managers or by an assessment may appeal as provided in sections 112.801 and 112.82.

#### 112.44 ADVISORY COMMITTEE.

The managers, upon qualifying, shall appoint an advisory committee ~~consisting~~ of at least five members, ~~who shall.~~ They must be selected if practicable as follows: ~~one shall be a supervisor of a soil and water conservation district; one shall be a member of a county board; one shall be a member of a sporting organization; and one shall be a member of a farm organization and.~~ Others may be appointed at the discretion of the managers, ~~which.~~ The appointees ~~shall must~~ be residents of the district, and ~~shall serve during at~~ the pleasure of the managers. The committee shall advise and assist the managers upon all matters affecting the interests of the district, and ~~shall~~ make recommendations to the managers upon all contemplated projects and works of improvement ~~within in~~ the district. ~~In addition~~ The managers may also appoint other interested and technical persons who may or may not reside ~~within in~~ the district ~~who shall to serve during at~~ the pleasure of the managers. Each member of the advisory committee, in the discretion of the managers, ~~shall be is~~ entitled to reimbursement for actual traveling and other expenses necessarily incurred in the performance of duties as provided for state employees.

#### 112.45 EMPLOYEES; DUTIES.

The managers may employ a chief engineer, professional assistants, and ~~such~~ other employees as ~~may be~~ necessary, and provide for their qualifications, duties, and compensation. The chief engineer shall be superintendent of all the works and improvements. The chief engineer shall make a full report to the managers each year, or more often if necessary. A copy of ~~such the~~ report and all recommendations by the chief engineer ~~shall must~~ be ~~transmitted sent~~ to the managers and the director. The managers may require any officer or employee of the district to give a bond for the faithful performance of duties, in an amount prescribed by them. The cost ~~thereof to~~ of the bond must be paid from the funds of the district.

#### 112.46 OVERALL PLAN.

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

Subdivision 1. **PLAN CONTENTS.** ~~The managers shall,~~ Within a reasonable time after qualifying, the managers shall adopt an overall plan for ~~any or all~~ of the purposes for which a district may be established. The overall plan ~~shall~~ be composed of must contain narrative statements of existing water and water-related problems ~~within in~~ the district, possible solutions ~~thereto,~~ and the general objectives of the district. The ~~overall~~ plan may also include as a separate section any proposed projects. The separate statement of proposed projects or petitions for projects to be undertaken ~~pursuant~~ according to the overall plan shall be considered as a comprehensive plan of the district for all purposes of review by the metropolitan council under section 473.165, if the district is within the metropolitan area.

Subd. 2. **ADOPTION PROCEDURES.** A copy of the plan shall ~~forthwith~~ be ~~transmitted~~ sent immediately to the county auditor of each county affected, the secretary of the board, the commissioner, the director, the governing bodies of all municipalities, any soil and water conservation district having territory within the district, and the metropolitan council if the district is within the metropolitan area. ~~Upon receipt of~~ On receiving the copy the director and the council shall examine it and within 60 days ~~thereafter,~~ unless the time is extended by the board, the director and the council shall transmit recommendations about the plan to the board ~~recommendations in connection therewith,~~ A copy of ~~which shall~~ the recommendations must be ~~transmitted~~ sent to the managers, the county auditor of each county affected, the governing bodies of all affected municipalities, and any affected soil and water conservation districts. Within 45 days from receipt of the director's and the council's recommendations the board shall have a public hearing on the proposed overall plan. The provisions of this chapter relating to notice, time, and place of hearing ~~upon~~ on a nominating petition shall govern the hearing. After the public hearing the board shall, by its order, prescribe an overall plan for the district. A copy of the order shall ~~must~~ be ~~transmitted~~ sent to the managers, the county board of each county affected, the commissioner, the director, the governing bodies of all municipalities affected, any affected soil and water conservation districts, and the council. ~~Upon transmittal~~ When sent, the plan shall ~~become~~ becomes the overall plan for the district. The plan may be amended upon a petition submitted by the managers; ~~and.~~ The board shall have a hearing on the amendment in the same ~~manner~~ way as in the original overall plan proceeding.

Subd. 3. **PLAN REVISION.** The managers and the board shall revise the overall plan for the district at least once every ten years ~~after the board originally prescribes the overall plan and shall make amendments as it deems~~ finds advisable. The managers shall consider including the following items in the revised overall plan, and any other information ~~deemed~~ they find appropriate:

- (1) updates ~~of~~ and supplements ~~of~~ to the existing hydrological and other statistical data of the district;
- (2) specific projects completed;

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- (3) a statement setting forth the extent to which the purposes for which the district had been established have been accomplished;
- (4) a description of problems requiring future action by the district;
- (5) a summary of completed studies on active or planned projects, including financial data;
- (6) an analysis of the effectiveness of the district's rules and permits in achieving its water management objectives in the district.

Subd. 4. **BOARD REVIEW OF REVISED OUTLINE.** After ten years and six months have elapsed from the date that the board prescribed an overall plan or the last revised plan, the managers shall adopt a revised overall plan outline and shall transmit a copy of the outline to the board. ~~Upon receipt of~~ On receiving a copy the board shall examine it and within 60 days thereafter adopt recommendations regarding the outline and report them to the managers.

Subd. 5. **FURTHER REVIEW.** Within 120 days after receiving the board's recommendations regarding the revised overall plan outline, the managers shall complete the revised overall plan. A copy of the plan ~~shall must be transmitted~~ sent to the board, the county board and county auditor of each county affected, the director, the governing bodies of all municipalities affected, any soil and water conservation district having territory within the district, and the metropolitan council if the district is within the metropolitan area. ~~Upon receipt of~~ On receiving the copy, the director and the council shall examine it and within 60 days thereafter, unless the time is extended by the board, the director and the council shall transmit recommendations on the revised plan to the board. A copy of ~~which shall~~ the recommendations must be transmitted ~~sent~~ to the managers, the county auditor of each county affected, the governing bodies of all affected municipalities, and any affected soil and water conservation districts.

Within 45 days from transmittal of the revised overall plan to the board, the board shall have a public hearing on the proposed revised overall plan. The provisions of this chapter relating to notice, time, and place of hearing ~~upon on~~ a nominating petition ~~shall~~ govern this proceeding. After public hearing the board shall, by its order, prescribe a revised plan for the district. A copy of the revised plan ~~shall must be transmitted~~ sent to the managers, the county board of each county affected, the commissioner, the director, the governing bodies of all municipalities affected, any affected soil and water conservation districts, and the council. Upon transmittal the plan ~~shall become~~ becomes the overall plan for the district.

#### 112.47 PROJECTS INSTITUTED.

All Projects of the district ~~which that~~ are to be paid by assessment ~~upon on~~ the benefited properties; ~~shall must be~~ instituted: (1) by a petition filed with the managers; (2) by unanimous resolution of the managers; or (3) as otherwise prescribed by this chapter.

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

**112.48 APPROVAL OF PROJECT; FILING OF PETITION; CONTENTS; HEARING; BONDS.**

Subdivision 1. **SIGNATURES.** After the overall plan of the district has been prescribed by the board, ~~as provided in~~ under section 112.46, a petition may be filed with the managers for any project within the district conforming in general with the plan. The petition must be signed:

(1) by not less than 25 percent of the resident freeholders, or by the owners of more than 25 percent of the land within the limits of the area proposed to be improved unless the project consists of the establishment of a drainage system as defined in sections 106A.005 to 106A.811 or the improvement of an existing drainage system;

(2) by a majority of the resident owners of the land over which the proposed project passes or is located, or by the owners of at least 60 percent of the area of the land, if the project consists of the establishment of a drainage system as defined in sections 106A.005 to 106A.811;

(3) by not less than 26 percent of the resident owners of the property affected by the proposed project or over which the proposed project passes or by the owners of not less than 26 percent of the area affected or over which the proposed project passes if the project consists of the improvement of an existing drainage system as defined in sections 106A.005 to 106A.811;

(4) by a county board of any county affected; or

(5) by the governing body of any city lying wholly or partly within the area proposed to be improved; ~~provided that~~. If the proposed project affects lands exclusively within a city, the petition ~~shall~~ must originate from the governing body of the city.

For the purpose of this subdivision, holders of easements for electric or telephone transmission or distribution lines are not considered freeholders or owners.

**Subd. 1a. CONTENTS.** The petition shall contain the following:

~~(a)~~ (1) a description of the proposed project, and the purpose to be accomplished;

~~(b)~~ (2) a description of the lands over which the proposed project passes or is located;

~~(c)~~ (3) a general description of the part of the district ~~which~~ that will be affected, if less than the entire district;

~~(d)~~ (4) a statement of the need and necessity for the proposed improvement;

~~(e)~~ (5) a statement that the proposed project will be conducive to public health, convenience, and welfare;

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

(f) (6) a statement that the petitioners will pay all costs and expenses ~~which~~ that may be incurred in case the proceedings are dismissed or for any reason no construction contract is let for the project.

Subd. 2. **BOND.** ~~Upon the filing of~~ When a petition is filed and before any action is taken on it, one or more of the petitioners shall deposit ~~not less than~~ at least \$2,000 with the ~~board of~~ managers, conditioned to pay all costs and expenses incurred if the project ~~petitioned for~~ is not constructed. Alternatively, with the approval of the ~~board of~~ managers, one or more of the petitioners may make and file a bond payable to the watershed district named in the petition in the sum of ~~not less than~~ at least \$2,000 with ~~good and~~ sufficient sureties, to be approved by the ~~board of~~ managers of the district with which the bond is filed, conditioned to pay all costs and expenses which may be incurred ~~in case if~~ the proceedings are dismissed or for any reason no contract is entered into for the construction of the project ~~petitioned for~~.

If it appears at any time ~~prior to~~ before the making of the order establishing a project that the deposit or bond of petitioners is ~~insufficient in amount too~~ small to protect the watershed district from loss on account of any costs or expenses incurred or to be incurred, the watershed district shall require an additional deposit or bond. ~~In that event~~ All further proceedings shall must ~~then~~ be stayed until the deposit or bond is furnished ~~and~~. If the additional deposit or bond is not furnished within the time the watershed district fixes, the proceedings may be dismissed.

In all project proceedings, the expenses incurred ~~prior to~~ before establishment shall must not exceed the required deposit or the penalty named in the bond ~~or bonds~~ given by the parties. No claim in excess of the amount of the deposit or bond ~~or bonds~~ shall be audited or paid by direction of the watershed district unless one or more parties in the proceeding, within the time the watershed district directs, files an additional deposit or bond in an amount as directed by the watershed district.

If the petition is signed by the proper officials of a county or city, no bond ~~shall be~~ is required.

Subd. 3. **AGREEMENTS WITH STATE OR FEDERAL AGENCIES.** ~~Where~~ The procedure in this section must be followed when an improvement is to be constructed within the district under an agreement between the managers and the state of Minnesota, or ~~any a~~ a state department or agency thereof, or the United States of America, or ~~any a~~ a federal department or agency thereof, ~~wherein~~ where the cost of the improvement is to be paid for in whole or in part by the governmental agency but the rights of way, and the expenses of the improvement are assumed by the district or where the managers are undertaking all or a portion of the basic water management project as identified in the overall plan; ~~the following procedure shall be followed.~~ A copy of the project plan shall must be forwarded to the board and director for their reports ~~after which~~. The managers shall then hold a public hearing on the proposed improvement ~~follow-~~

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~~ing publication.~~ Notice of the hearing must be published once each week for two successive weeks ~~prior to~~ before the date of the hearing in a legal newspaper, published in the ~~county or counties~~ in which a part or all of the affected waters and lands are located. The last publication ~~shall~~ must occur not more than 30 days and at least ten days before the hearing. The notice ~~shall~~ must state the time and place of hearing, the general nature of the proposed improvement, ~~the its estimated cost thereof and the method by which~~ how the cost of the improvement is to be paid, including the cost to be allocated to each affected municipal corporation or the state of Minnesota or ~~any state~~ state department thereof. ~~Not less than~~ At least ten days before the hearing, notice by mail ~~shall~~ must be given to the director and to the municipal corporations wholly or partly within the improvement project area; ~~but~~. Failure to give mailed notice or defects in the notice ~~shall~~ do not invalidate the proceedings. At the time and place specified in the notice the managers shall hear all parties interested in the proposed project or improvement. If upon full hearing the managers find that the improvement will be conducive to public health and promote the general welfare, and ~~is in compliance~~ complies with the overall plan and the provisions of this chapter, they shall make findings accordingly and authorize the project.

Subd. 4. **RESOLUTION; HEARING.** The ~~board~~ of managers may institute projects upon a resolution of ~~not less than~~ at least a majority of the ~~board~~ managers if:

(a) (1) each project is financed by one or more grants totaling at least 50 percent of the estimated cost; and

(b) (2) the engineer's estimate of local costs to the district, including ~~any~~ assessments against benefited properties but excluding ~~any~~ state, federal, or other ~~grant grants~~, is not over \$750,000 for any single project. No resolution under this subdivision shall be used ~~for the establishment of~~ to establish a project, the essential nature and purpose of which is for drainage.

The managers shall hold a public hearing on the proposed resolution for the project following publication ~~published~~ once each week for two successive weeks. The publication ~~shall~~ must be in a legal newspaper published in the ~~county or~~ counties in which the watershed district is situated. The last publication ~~shall~~ must occur at least ten days before the meeting at which the resolution will be heard. The notice ~~shall~~ must contain the date, time, and place of hearing, the substance of the proposed resolution, the means of financing the project, and a statement that all persons who might be affected by the project or who may be interested in it may appear and be heard. Defects in the notice ~~shall~~ do not invalidate the proceedings.

The managers shall secure from the district engineer or other competent person of ~~their selection~~ they select a report advising them in a preliminary way whether the proposed project is feasible and estimating the cost of the project. ~~No~~ An error or omission in the report ~~shall~~ does not invalidate the proceeding. The managers may also take other steps ~~prior to~~ before the hearing ~~which that~~

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will in their judgment ~~provide helpful information in determining~~ help determine the desirability and feasibility of the improvement. If after the hearing it appears to the managers that the proposed project promotes the public interest and welfare, and is practicable and ~~in conformity~~ conforms with the overall plan of the district, they shall adopt a final resolution for the project, ~~and properly,~~ They shall identify the proceeding by name and number. If the report of the engineer is unfavorable the managers shall fix a time and place for a hearing in the manner provided for the hearing on the resolution. ~~Thereafter~~ The matter may then be referred back to the engineer for further study and report or the managers may dismiss the proceeding.

When a final resolution is adopted, the matter shall proceed ~~as in the case of~~ like a project instituted by petition ~~as is prescribed by~~ under this chapter. Upon ~~the~~ filing by the managers with the auditor of a county of a statement listing the property and corporations benefited or damaged or otherwise affected by any project under this subdivision as found by the appraisers and approved by the managers, proceedings shall ~~be commenced pursuant to~~ begin under section 112.60.

#### 112.49 SURVEYS; PLANS.

Subdivision 1. **CONTENTS OF PLAN.** If it appears to the managers that the petition is sufficient, that the proposed project promotes the public interest and welfare and is practicable and in conformity with the overall plan of the district, they shall properly identify the proceeding by name and number ~~and shall cause to be made, at the earliest time.~~ As soon as possible, all they shall have necessary surveys and maps made for the proposed project as provided in this subdivision. The engineer designated by the managers shall ~~make a~~ report to the managers of findings and recommendations ~~relative to~~ about the proposed project. If the engineer finds the improvement feasible the engineer shall include in the report a plan of the proposed project including:

(1) a map of the area to be improved, drawn to scale, showing the location of the proposed improvements; the location and adequacy of the outlet; the watershed of the project area; the location of existing highways, bridges, and culverts; all lands, highways, and utilities affected, ~~together with~~ and the names of the known owners; ~~so far as known;~~ the outlines of ~~any~~ public lands and public bodies of water affected; and ~~any~~ other physical characteristics of the watershed necessary for the understanding of the area;

(2) the estimated total cost of ~~the completion of~~ completing the project, including costs of construction ~~and all,~~ supervision, and ~~administrative costs of the project~~ administration;

(3) the acreage which will be required and taken as right-of-way listed by each lot and 40-acre tract, or fraction ~~thereof~~ of a lot or tract, under separate ownership; and

(4) other details and information to inform the managers of the practicabili-

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ty and necessity of the proposed project together with the engineer's recommendations on these matters.

Subd. 2. **STATE AND FEDERAL PROJECT PLANS.** The engineer may adopt and approve and include as a part of the report, any project of the state of ~~Minnesota~~ or the United States which is pertinent to the project ~~and~~. The engineer may accept any data, plats, plans, details, or information pertaining to ~~such~~ the state or federal project furnished to the engineer by the state or federal agency ~~and~~. The engineer shall omit from the report ~~those~~ the items called for in subdivision 1 if the data furnished by the state or federal agency ~~is sufficient to meet~~ meets the requirements of subdivision 1.

Subd. 3. **HEARING.** If the engineer's report is unfavorable the managers shall, within 35 days thereafter ~~by~~ order ~~fix~~ a time and place within the district for a hearing at which the petitioners shall show cause why the managers shall not refer the petition back to the petitioners for ~~such~~ further proceedings ~~thereon~~ as that the managers may determine, or the managers may dismiss the petition. The notice shall ~~must~~ state that the engineer's report is unfavorable, that it is on file with the managers and is subject to inspection, and the time and place for hearing ~~thereon~~ on it. The managers shall mail a copy of the notice to each of the petitioners at least 14 days before the hearing.

Subd. 4. **PETITION DISMISSAL.** The petitioners may dismiss the petition, upon payment of costs and expenses.

Subd. 6. **DIRECTOR AND BOARD REPORTS.** ~~Upon the filing of~~ When the engineer's report; ~~is filed, the managers must send~~ a complete copy thereof shall be transmitted to the director and ~~to the board by the managers.~~

The director and the board shall examine the ~~same report~~ and within 30 days ~~make their reports thereon~~ report on it to the managers. If they find the report incomplete and not in accordance with the provisions of this chapter, they shall so report. If they approve ~~the same~~ it as being a practical plan they shall so state. If they do not approve the plan they shall file their recommendations for changes as they ~~deem~~ find advisable; ~~or~~. If in their opinion the proposed project or improvement is not practical they shall so report. If a soil survey appears advisable they shall so advise ~~and in such event~~. In that case the engineer shall make the soil survey and report ~~thereon~~ on the survey before the final hearing. Their reports shall be directed to and filed with the managers. ~~Such~~ The reports shall be deemed are advisory only.

No notice shall issue for the hearing until the board's and the director's reports are filed or the time for filing thereof ~~them~~ has expired.

Subd. 7. **ENGINEERING REPORTS.** The findings, recommendations, and content of engineering reports for projects under this chapter shall ~~must~~ conform as nearly as practicable to the requirements of this section ~~and~~. The managers must send a copy of each report shall be transmitted to the board ~~by the managers.~~

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## 112.50 APPRAISALS.

Subdivision 1. **APPOINTMENT; DUTIES.** ~~Upon the filing of~~ When the engineer's report is filed the managers shall, with the least possible delay, appoint three disinterested resident freeholders of the state to act as appraisers. ~~These~~ The appraisers shall ~~subscribe~~ sign an oath to faithfully and impartially perform their duties; ~~and.~~ With or without the engineer, ~~they~~ shall determine the benefits or damages to all lands and properties affected by the proposed project or improvement, including lands owned by the state of Minnesota or ~~any a state~~ any a state department thereof, highways, and other property likely to be affected by the proposed improvement or that may be used or taken for ~~the its~~ its construction or maintenance thereof. Benefits and damages to lands owned by the state of Minnesota or ~~any a state~~ any a state department thereof held and used for the purposes described in sections 106A.025 and 106A.315, subdivision 1, shall be determined subject to ~~the provisions thereof~~ those sections, so far as applicable. Each appraiser may be paid on a per diem basis for every day necessarily engaged in the performance of duties and for actual and necessary expenses. The compensation ~~shall must~~ be fixed by the managers, to be paid by the district and included in the cost of improvement. The managers of the watershed districts may ~~in their discretion~~ use the following procedure for the purpose of ~~determining to~~ determine benefits and damages. ~~Upon the filing of~~ When the engineer's report is filed, the managers with the ~~assistance~~ help of the engineer shall determine the benefits or damages to all lands and properties affected by the proposed project or improvement; ~~including.~~ The lands and properties include lands owned by the state of Minnesota or ~~any a state~~ any a state department thereof, highways, and other property likely to be affected by the proposed improvement or that may be used or taken from the ~~its~~ its construction or maintenance thereof. Benefits and damages to lands owned by the state of Minnesota or ~~any a state~~ any a state department thereof held and used for the purposes described in sections 106A.025 and 106A.315, subdivision 1 ~~shall must~~ be determined subject to ~~the provisions thereof~~ those sections, so far as applicable. The managers shall also determine the amount to be paid and generally assessed by the watershed district for the basic water management portion of ~~the~~ improvement projects.

## 112.501 BENEFITED PROPERTY; DETERMINATION.

Subdivision 1. **APPRAISERS' STANDARDS.** ~~Where~~ If the proposed improvement; ~~includes or prays for~~ the construction or improvement of ~~any a~~ any a ditch, stream, river, or watercourse, or ~~any structures~~ a structure for the control or alleviation of damages from flood waters, the appraisers shall be governed by sections 106A.311 to 106A.321.

Subd. 2. **DETERMINATION OF BENEFITS.** In ~~all~~ proceedings under this ~~act~~ chapter assessments for benefits against lands ~~shall must~~ be made upon benefits to ~~such the~~ the lands by reason of the project or improvement affecting ~~the same~~ them. Benefits and benefited properties ~~shall~~ include:

(1) ~~All~~ Lands, including lands owned by the state of Minnesota or ~~any a~~ any a subdivision thereof of the state receiving direct benefits. Direct benefits include;

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but are not limited to assessments for drainage, recreation, commercial navigation, disposal of sewage or waste material, bank stabilization, flood control, land reclamation, prevention of siltation, control of erosion, and maintenance of lake levels;

(2) ~~All~~ Lands that are contributing water or are furnished an improved drainage outlet and ~~all~~ lands that contribute waters that are stored, handled, or controlled by the proposed improvement;

(3) ~~All~~ Lands that are not receiving but need drainage and that are furnishing waters that are handled or controlled by the proposed improvement.

(4) Benefits to the state by reason of the improvement of lakes, streams, or other bodies of water as a place for propagation, protection, and preservation of fish and other forms of wildlife, ~~which~~. These benefits ~~shall be~~ are assessable against the state ~~of Minnesota~~ to the extent and in the manner provided for assessments against the state in section 84A.55, subdivision 9, and within the available appropriation.

(5) Benefits to municipal corporations ~~which that~~ occur to the lands in the municipality generally and which may be in addition to special benefits to specific lands within the municipality.

(6) Benefits that will result to all lands used for railway or other utility purposes.

#### 112.51 APPRAISERS' REPORT; EXAMINATION.

~~Upon filing of~~ When the appraisers' report is filed the managers shall examine it to determine if it ~~was made in conformity with~~ conforms to the requirements of this chapter, and if the total benefits ~~thus found~~ are greater than the total estimated costs and damages. If the appraisers' report is lacking in any particulars the managers may ~~recommit~~ return it to the appraisers for further study and report.

#### 112.52 HEARING UPON PETITION AND REPORTS.

Upon the filing of the report of the engineer and the appraisers appointed ~~herein~~ by the managers, ~~they~~ the managers shall, within 35 days thereafter, ~~by order; fix~~ a time and place within the district for a hearing upon the petition or resolution and reports. Due notice ~~thereof shall~~ of the hearing must be given by the managers as ~~herein~~ provided in this chapter.

#### 112.53 NOTICE OF HEARING; CONTENTS.

Subdivision 1. **CONTENTS OF NOTICE.** The managers shall by publication give notice of the pendency of the petition or resolution; the time and place for hearing ~~thereon~~ on it; and that the engineer's and appraisers' reports, including the plans, have been filed with the managers and are subject to inspection. The notice shall contain a brief description of the proposed project, together

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with a description of the properties benefited or damaged, the names of the owners of the properties, and the public and other corporations affected by the project as shown by the engineer's and appraisers' reports. A map of the affected area may be included in the notice ~~in lieu~~ instead of the names of the owners or of the descriptions of the properties affected by the project or both. The notice shall require all parties interested in the proposed project to appear before the managers at the time and place designated in the notice to present any objections they may have, and to show cause why an order should not be made by the managers granting the petition, confirming the reports of the engineer and appraisers, and ordering the establishment and construction of the project.

Subd. 2. **MAILING.** The managers shall give notice by mail, within one week after the beginning of publication, to the director and to each person, corporation, and public body that owns property benefited or damaged by the proposed improvement as shown by the engineers and appraisers report. The notice ~~shall~~ must contain a brief description of the proposed improvement and state:

(1) that the engineer's and appraisers' report are on file with the managers and available for public inspection;

(2) the time and place of hearing; and

(3) that the addressee's name appears as an affected party.

Subd. 3. **SPECIAL REQUIREMENTS; ACQUIRING LAND.** When it is required that the managers acquire land in fee simple estate, they shall, ~~prior to~~ before the filing of the appraiser's report, record in the office of county recorder of the county in which the lands are situated, a notice of the pendency of a proceeding initiated by the managers to acquire the lands, ~~which.~~ The notice shall must state the purpose for which the lands are to be taken. At least 20 days before the hearing, notice of the hearing in addition to that required in subdivisions 1 and 2 ~~hereof~~ shall must be served upon owners of the property, in the same manner as the summons in a civil action, ~~which.~~ The notice shall must describe the land, state by whom and for what purpose it is to be taken, and give the names of all persons appearing of record or known to the managers to be the owners. The notice ~~shall~~ must also state that benefits and damages have been determined, and that a hearing will be held by the managers at the time and place specified in the notice.

Subd. 4. **SPECIAL NOTICE; LAND IN TWO OR MORE COUNTIES.** ~~Where~~ If the improvement affects the lands and properties in more than one county, separate notices ~~shall~~ must be prepared and published in each county affected ~~showing only the.~~ The notices must include a general description of the proposed improvement and the names and descriptions of the properties affected in the county or, ~~in lieu~~ instead of the names or descriptions or both, a map of the area affected in the county. Notice by mail as provided in subdivision 2 ~~shall~~ must be given.

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#### 112.54 HEARING BEFORE MANAGERS.

At the time and place specified in the notice, the managers shall hear all parties interested for and against the establishment of the proposed improvement and confirming the reports. All Questions ~~relative to~~ about the proposed improvement including jurisdiction, sufficiency of the petition or resolution, practicability, and necessity ~~shall~~ must be determined upon evidence presented at the hearing. Any Findings made by the managers ~~prior to~~ before the hearing ~~shall be~~ are not be conclusive but ~~shall be~~ are subject to further investigation, consideration, and determination at the hearing. ~~They~~ The managers may order ~~and direct~~ the modification of the engineer's report within the scope of the overall improvement plan for the district, and the assessment of benefits and damages and amend ~~or change~~ the list of property reported as assessable for the construction and maintenance ~~thereof~~ of the improvement. If the amended reports include property not included in the original reports, the managers shall adjourn and ~~cause to be published~~ publish and ~~mailed~~ mail, as in the original notice, the proper notice with reference to all lands and properties not included in the previous notice. If upon full hearing the managers find that the improvement will be conducive to public health and promote the general welfare, and is in compliance with ~~the provisions and purposes~~ of this chapter, and that ~~the~~ its benefits ~~resulting therefrom~~ will be greater than the cost of the construction and damages, they shall make findings accordingly and order and direct the construction of the improvement and confirm the report of the engineer and the findings and report of the appraisers ~~and~~. The managers may by ~~this~~ the order authorize the construction of the proposed improvement as a whole or ~~for~~ different parts ~~thereof~~ separately. The managers shall order the engineer to proceed ~~with~~ making to make the necessary surveys and ~~preparing such~~ prepare the plans and specifications ~~as are~~ needed to construct the proposed improvements and report ~~the same~~ them to the managers with reasonable dispatch. The hearing then shall be recessed to await the engineer's report and receipt of bids, when it may again be recessed to allow compliance with section 112.541 if ~~said section 112.541~~ becomes applicable it applies.

#### 112.541 PROCEDURE WHEN CONTRACT IS NOT LET.

If ~~after the receipt of the bids~~, no bids are received except for a price more than 30 percent in excess of the ~~engineers~~ estimate ~~as contained in~~ the engineer's report, or for a price in excess of the benefits, less damages and other costs, the managers shall follow the procedure described in section 106A.511.

#### 112.55 ORDER OF MANAGERS ESTABLISHING IMPROVEMENT; FILING.

Any An order of the managers establishing the improvement and authorizing ~~the~~ its construction ~~thereof~~ shall ~~forthwith~~ must immediately be filed with the secretary of the district, ~~and~~. A certified copy ~~thereof~~ shall of the order must be filed with the auditor of each county affected, the board, the commissioner, the director, the Minnesota pollution control agency, and the state department of health.

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**112.57 BIDS.**

After ~~an order has been made by the managers directing~~ have ordered the establishment of each improvement, ~~the managers they~~ shall call for bids for the construction of the work and. They shall give notice ~~thereof~~ of the call for bids by ~~publication specifying therein publishing~~ the time and place when the bids will be opened for the letting of a contract for the construction of the work. The contract may be let in sections or as a whole, as the managers may direct. Notice ~~thereof shall~~ must be published in at least one of the newspapers in the state where such notices are usually published. At a time and place specified in the notice, the managers may accept or reject any ~~or all~~ bids and may let the contract to the lowest responsible bidder, who shall give a bond, with ample security, ~~conditions conditioned~~ for the carrying out of the contract. Bids ~~shall~~ must not be ~~entertained~~ considered which in the aggregate exceed by more than 30 percent the total estimated cost of construction. ~~Such~~ The contract ~~shall~~ must be in writing and ~~shall~~ be accompanied by or ~~shall~~ refer to the plans and specifications for the work to be done, and prepared by the engineer for the district. The plans and specifications ~~shall~~ become a part of the contract. The contract ~~shall~~ must be approved by the managers, signed by the president and secretary ~~thereof~~, and by the contractor.

**112.58 EMERGENCY PROCEDURES.**

If the managers find that ~~conditions exist which present~~ there is a clear and imminent danger to the health or welfare of the people of the district, and that to delay action would prejudice the interests of the people ~~of the district~~ or would be likely to cause irreparable harm, the managers may declare ~~the existence of~~ an emergency and designate ~~the its~~ location, nature and extent ~~of the emergency~~. When an emergency has been declared, and to the extent necessary to protect the interests of the district, the managers may order that work be done under the direction of the managers and the engineer, without a contract. The cost of work undertaken without a contract may be assessed against benefited properties or, if the cost is not more than 25 percent of the latest administrative ad valorem levy of the district and the work is found to be of common benefit to the district, may be raised by an ad valorem tax levy upon all taxable property within the district, or both.

**112.59 CONTROL OF CONTRACTS.**

~~In all cases where~~ When contracts are let by the managers, they ~~shall~~ have full control of all matters pertaining ~~thereto~~ to the contracts. If a contractor fails to complete the improvement within the time or in the manner specified in the contract, the managers may extend the time for completion or ~~may~~ refuse an extension of time or ~~may~~ cancel the contract and readvertise and relet the contract. They may require the surety for the contractor to complete the improvement or ~~proceed~~ to have the contract otherwise completed at the expense of the contractor and the surety. They may take ~~such~~ other action with reference ~~thereto that~~ to the contract as the occasion ~~may require~~ requires in the interest

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of the district. ~~The provisions of Sections 106A.005 to 106A.811, so far as pertinent, apply to and govern the relations between the engineer and the contractor, including the examination and report of the engineer and the amount and time of payment. The managers shall keep an accurate account of all expenses incurred, which shall, The account must include the compensation of the engineer and the assistants, ~~the compensation and expenses of the appraisers as provided in section 112.50, and the compensation of petitioners' attorney;~~ the cost of petitioners' bond; the fees of all county officials necessitated by the improvement, which shall be in addition to all fees otherwise allowed by law; and the time and expenses of all employees of the district, including the expenses of the managers while engaged in any improvement. The fees and expenses provided for ~~herein~~ in this section shall be audited, allowed and paid upon the order of the managers and ~~shall~~ must be charged to and be treated as a part of the cost of the improvement.~~

#### 112.60 ASSESSMENTS; LEVIES.

Subdivision 1. **AUDITOR'S DUTIES.** ~~Upon the filing by~~ When the managers file with the auditor of any county of a statement listing the property and corporations benefited or damaged or otherwise affected by any improvement as found by the appraisers and approved by the managers, the auditor shall assess the amount specified in ~~such~~ the list against the lands and municipalities or other corporations as ~~therein~~ in the list in accordance with the pertinent provisions of sections 106A.005 to 106A.811.

Subd. 2. **COUNTY BOARD DUTIES.** ~~Upon filing of the~~ When a statement is filed as provided in subdivision 1, the county board of each county affected shall provide funds to meet its proportionate share of the total cost of the improvements, as shown by the report and order of the managers of the district; ~~and, For such purposes is authorized to~~ that purpose it may issue bonds of the county in ~~such~~ the necessary amount as ~~may be necessary in the manner~~ provided by section 106A.635. ~~In the event~~ If an improvement is to be constructed under the provisions of section 112.69, the provisions of section 106A.635 requiring the county board to let a contract for construction before issuing bonds ~~shall does not be applicable~~ apply to bonds issued to provide the funds required ~~to be furnished~~ by this section.

Subd. 3. **LEVY AND COLLECTION.** The respective county auditors and county treasurers shall levy and collect the amount shown in the tabular statement and lien as provided in sections 106A.601 to 106A.631. All money received by the treasurer of any county from the sale of bonds, assessments, or otherwise, for the benefit of the district ~~shall~~ must be accounted for by the auditor and paid over to the treasurer of the district.

Subd. 4. **EXCEPTIONS.** No assessment shall be levied against any property or corporations benefited under the provisions of this chapter in excess of the amount of benefits received as fixed by the order of the managers authorizing the construction of the improvement or subsequently determined on appeal.

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## 112.61 FUNDS OF DISTRICT.

Subdivision 1. **ENUMERATION OF FUNDS.** The money of ~~any a~~ district organized under the ~~provisions~~ of this chapter ~~consist~~ consists of: the funds described in subdivisions 2 to 8.

Subd. 2. **ORGANIZATIONAL EXPENSE FUND.** ~~A~~ The organizational expense fund; ~~which~~ consists of an ad valorem tax levy, not to exceed two-thirds of one mill on each dollar of assessed valuation of all taxable property within the district or \$60,000 whichever is ~~the lesser~~ less. ~~Such~~ The funds shall be used for organizational expenses, and preparation of an overall plan for projects and improvements. The managers of the district ~~shall be authorized to~~ may borrow from the affected counties up to 75 percent of the anticipated funds to be collected from the organizational expense fund levy and the counties affected ~~are hereby authorized to~~ may make ~~such~~ the advancements. The advancement of anticipated funds shall be apportioned among affected counties in the same ratio as the assessed valuation of the area of the counties within the district bears to the assessed valuation of the entire district. ~~In the event~~ If an established district is enlarged, an organizational expense fund may be levied against the area added to the district in the ~~same manner as above way~~ provided in this subdivision. Unexpended funds collected for the organizational expense may be transferred to the administrative fund and used for the purposes authorized ~~therein; for it.~~

Subd. 3. **ADMINISTRATIVE FUND.** ~~A~~ The administrative fund; ~~which~~ consists of an ad valorem tax levy not to exceed one mill on each dollar of assessed valuation of all taxable property within the district, or \$125,000, whichever is ~~the lesser~~ less. ~~Such~~ The funds shall be used for general administrative expenses and ~~for the construction and maintenance of~~ to construct and maintain projects of common benefit to the district. The managers may make an annual levy for this fund as provided in section 112.611. In addition to the annual administrative levy, the managers may annually levy a tax of not to exceed one-third of one mill for a period of not to exceed 15 consecutive years to pay the cost attributable to the basic water management features of projects initiated by petition of a municipality of the district.

Subd. 4. **BOND FUND.** ~~A~~ The bond fund; ~~which~~ consists of the proceeds of bonds issued by ~~such~~ the district under this chapter, as ~~herein provided~~ secured upon the property of the district which is producing or is likely to produce a regular income and, The bond fund is to be used for the ~~payment of~~ to pay the purchase price of the property or ~~the its~~ value thereof as fixed by the court in proper proceedings, and for ~~the its~~ improvement and development of ~~such property;~~

Subd. 5. **CONSTRUCTION FUND.** ~~A~~ The construction fund; ~~which is to~~ be supplied by: the sale of county bonds; construction loans from any agency of the federal government; and by special assessments ~~to be levied as herein provided~~ under this chapter to supply funds ~~for the construction of~~ to construct the

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improvements of the district, including reservoirs, ditches, dikes, canals, channels, and other works, together with the expenses ~~incident thereto and connected therewith~~ with it. Construction loans from any agency of the federal government may be repaid from ~~moneys~~ money collected by special assessments upon properties benefited by the improvement ~~as herein provided; under this chapter.~~

Subd. 6. **PRELIMINARY FUND.** ~~A~~ The preliminary fund; ~~which~~ consists of funds provided ~~as herein specified under this chapter,~~ and is ~~to be~~ used for preliminary work on proposed works of the district.

Subd. 7. **REPAIR AND MAINTENANCE FUNDS.** The repair and maintenance funds ~~to be~~ are established ~~pursuant to the provisions of under~~ section 112.64 ~~as amended or hereafter amended.~~

Subd. 8. **SURVEY AND DATA ACQUISITION FUND.** ~~A~~ The survey and data acquisition fund ~~which shall be~~ is established or used only when no other funds are available to the district to pay ~~for making to make~~ necessary surveys and ~~acquiring~~ acquire data. The fund consists of an ad valorem levy, which can be levied not more than once every five years, not to exceed one mill on each dollar of assessed valuation of all taxable property within the district. ~~At no time shall~~ The balance of the survey and data acquisition fund must never exceed \$50,000. In a subsequent proceeding for a work where a survey has been made, the attributable cost of the survey as determined by the managers shall be included as a part of the cost of the work and ~~that sum shall~~ be repaid to the survey and data acquisition fund.

#### 112.611 BUDGET; TAX LEVY.

Subdivision 1. **BUDGET PROCEDURES.** On or before October 1 of each year the managers shall adopt a budget for the ensuing year and ~~shall~~ decide ~~upon~~ the total amount necessary to be raised from ad valorem tax levies to meet its budget. Before adopting a budget the managers shall hold a public hearing on the proposed budget. The managers shall publish a notice of the hearing together with a summary of the proposed budget in one or more newspapers of general circulation in each county into which the watershed district extends. The notice and summary ~~shall~~ must be published once each week for two successive weeks before the hearing. The last publication ~~shall~~ must be at least two days before the hearing.

After adoption of the budget and no later than October 1, the secretary of the district shall certify to the auditor of each county within the district the county's share of ~~such the~~ tax; ~~which shall.~~ The share must be an amount bearing the same proportion to the total levy as the assessed valuation of the area of the county within the watershed bears to the assessed valuation of the entire watershed district. The maximum amount of any levy ~~shall~~ must not exceed that provided for in ~~Minnesota Statutes 1961,~~ section 112.61 ~~and acts amendatory thereof.~~

Subd. 2. **TAX LEVY AND COLLECTION.** The auditor of each county in

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the district shall add the amount of any levy made by the managers to the other tax levies on the property of the county within the district for collection by the county treasurer with other taxes. When collected, the county treasurer shall make settlement of ~~such~~ the taxes with the treasurer of the district in the same ~~manner~~ way as other taxes are distributed to the other political subdivisions. The levy authorized by this section ~~shall be~~ is in addition to any other county taxes authorized by law.

#### 112.62 ~~DISTRICT COURT TO CREATE PRELIMINARY FUND.~~

Subdivision 1. **PETITION.** When a proper petition has been filed with the managers for the construction of a project within the district, the managers may file a petition with the district court in the county where the district has its principal place of business asking that a preliminary expense fund be created for the district; ~~and~~. The managers may ~~subsequently later~~ amend or supplement the petition if necessary. At least ten days' notice of a petition or amended or supplementary petition ~~shall~~ must be given to the auditor of each county affected by the proposed project. The fund applied for ~~shall~~ must be of a size proportionate to meet the needs of the district for preliminary work on the proposed project.

Subd. 2. **DISTRICT COURT; ESTABLISHMENT OF FUND.** The district court upon hearing may designate the amount of the fund and fix the proportionate amount that each county affected by the improvement shall pay, in proportion to the area in the county affected by the proposed improvement. The court shall order the auditor of each county to draw a warrant ~~upon~~ on the treasurer of the county ~~for the payment of to pay~~ the amount specified in the order; ~~payable~~ to the treasurer of the district. The sum so advanced by the county ~~shall~~ must be charged to the district, and ~~shall be~~ repaid with interest as soon as the district has funds for that purpose. The funds ~~so~~ provided ~~shall~~ must be used by the managers for preliminary work. When the managers incur expenses for surveys or other preliminary work on ~~any~~ a proposed improvement, all expenses connected with ~~such~~ the work ~~shall~~ must be included in the cost of ~~its~~ construction ~~of the proposed improvement~~. When the construction of the improvement is authorized by the managers the funds advanced from the preliminary fund ~~shall~~ must be repaid out of receipts from assessments.

Subd. 4. **APPROPRIATIONS.** The state of ~~Minnesota and any~~ a state department, or political subdivision ~~thereof~~ may appropriate ~~such~~ sums ~~as are~~ necessary to pay its proportionate share of ~~such~~ preliminary expenses; The proportionate share must be determined by the managers according to the benefits that will probably accrue to the corporation from the contemplated improvements.

Subd. 5. **DISTRICT COURT POWERS.** The district court may order a preliminary fund for all works of the district ~~instituted pursuant to~~ begun under section 112.47.

#### 112.63 WARRANTS.

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The managers of ~~any~~ a district may issue warrants of the district ~~in payment of any to pay~~ contracts for the construction of ~~any~~ improvements, for ~~all~~ ordinary general expenses, and for ~~all~~ expenses incurred in making repairs, which have been approved by the managers only when there are sufficient funds available for payment in the district treasury.

#### 112.64 ~~LEVY FOR REPAIR OF IMPROVEMENT~~ IMPROVEMENTS.

Subdivision 1. **MANAGERS' DUTIES.** The ~~board of managers shall be~~ are responsible for maintaining the projects of the district ~~in such condition so~~ that they will accomplish the purposes for which they were constructed. The cost of normal or routine maintenance of the projects of the district, and the cost of removing obstructions and accumulations of foreign substances from a drainage system, ~~shall must~~ shall must be paid from the maintenance fund upon the order of the ~~board of managers.~~

Subd. 2. **CREATION OF MAINTENANCE FUND.** ~~For the purpose of creating~~ To create a maintenance fund for ~~normal and~~ routine maintenance of a project, the ~~board of managers is authorized to~~ may apportion and assess the amount of the fund against all the parcels of land and municipal corporations previously assessed for benefits in proceedings for the construction of the project. The assessment ~~shall must~~ shall must be made pro rata according to benefits determined. No assessment for the benefit of the maintenance fund shall be made when the fund exceeds 20 percent of the original cost of construction of the project. Upon receiving the assessment order from the ~~board of managers,~~ the auditors of the counties affected shall file for record in the ~~office offices~~ of the county ~~reorder recorders~~ for the county counties a tabular lien statement covering the assessment. The assessment ~~shall must~~ shall must be collected as provided in the order in the same ~~manner way~~ as provided in section 106A.731. Before ordering the levy of an assessment for the benefit of the maintenance fund, the ~~board of managers; in its discretion;~~ may give notice of a hearing on the matter.

Subd. 3. **REPAIRS OTHER THAN NORMAL MAINTENANCE.** ~~The managers may order repairs other than routine maintenance if the engineer certifies to the board of managers; them~~ in the annual report or otherwise;

(1) that an improvement of the district is in such a state of disrepair that it cannot be restored by ~~normal and~~ routine maintenance to the ~~same its~~ condition as when originally constructed or ~~subsequently later~~ improved; ~~or;~~

(2) that a ditch or channel must be widened or deepened; ~~or~~

(3) that ~~any an~~ improvement of the district must be altered or improved; ~~in order~~ to attain the level of operating efficiency contemplated at the time of the original construction; ~~the board of managers;~~

Before ordering any repairs other than ~~normal and~~ routine maintenance, the managers shall order the engineer to prepare and submit ~~to the board of managers~~ technical and cost specifications on the work necessary to restore, or improve

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the improvement to the desired level of operating efficiency. Upon receiving the engineer's report, the ~~board~~ of managers shall set a date for hearing on the report and give notice of the hearing in the same manner as in the original proceeding on the construction of the improvement. If upon hearing the ~~board~~ of managers ~~finds~~ find that the repair or improvement is in compliance with the provisions, ~~is~~ and necessary to accomplish the purposes of this chapter, and that the cost of the repair or improvement will not exceed its benefits, they may order the repair or improvement and assess the cost against the benefited properties. The cost shall be apportioned and assessed pro rata upon all lands and property that were assessed for the construction of the improvement. No single levy for repair shall exceed the amount of benefits originally determined.

The ~~board~~ of managers shall file a copy of the order for levy with the auditor of each county ~~which~~ that contains affected properties. The auditor shall extend the levy against affected properties as in proceedings for the levy, assessment, and collection of taxes levied in drainage proceedings conducted under sections 106A.005 to 106A.811.

Subd. 4. **BIDDING REQUIREMENTS.** If the managers find that the estimated cost of repair, including all fees and costs incurred for related proceedings ~~relating~~ to it, is less than \$20,000, it may have the work done by contract without advertising for bids.

#### 112.65 DRAINAGE SYSTEMS WITHIN DISTRICT.

Subdivision 1. **MANAGERS' CONTROL.** The managers of a district shall take over when directed by ~~the district court~~ a joint county ditch authority or county board any ~~judicial joint county~~ joint county or county drainage system within the district, together with the right to repair and maintain ~~the same~~ it. ~~Such~~ The transfer may be initiated by the ~~district court~~ joint county ditch authority or county board, ~~or such transfer.~~ It may also be initiated by a petition from any person having an interest interested in the drainage system or by the managers. ~~No such~~ The transfer ~~shall~~ must not be made until the ~~district court~~ joint county ditch authority or county board has held a hearing ~~thereon~~ on it. ~~Due~~ Notice of the proposed transfer together with the time and place of hearing ~~shall~~ must be given by two weeks published notice in a legal newspaper of general circulation in the area involved. All interested persons may appear and be heard. Following the hearing, the ~~district court~~ joint county ditch authority or county board shall ~~make its order directing~~ that the managers of a district take over the affected ~~judicial or county~~ joint county drainage system, unless it appears that the ~~take over~~ takeover would not be ~~in~~ for the public welfare or ~~be~~ in the public interest and would not serve the purpose of this chapter. When the transfer is directed all proceedings for repair and maintenance ~~shall thereafter~~ must conform to the ~~provisions~~ of sections 106A.005 to 106A.811.

Subd. 2. **CONSTRUCTION OR IMPROVEMENT.** Construction of all new drainage systems or improvements of existing drainage systems ~~within~~ in the district ~~shall~~ must be initiated by filing a petition with the managers ~~of the~~

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~~district.~~ In all proceedings for the improvement of existing drainage systems ~~within~~ in the district, the managers shall conform to ~~the provisions of~~ section 112.49.

#### 112.66 DAMAGE TO HIGHWAY OR BRIDGE BY PASSAGE OF EQUIPMENT.

~~In ease~~ If it is necessary to pass ~~any a~~ dredge or other equipment through a bridge or grade of ~~any a~~ highway or railroad owned by ~~any a~~ corporation, county, town, or municipality, the managers shall give 20 ~~days~~ days' notice to the owner of the bridge or grade so that ~~the same it~~ may be removed temporarily to allow the passage of ~~such the~~ equipment, or an agreement may be immediately entered into for ~~such purposes~~ the purpose. The owner of the bridge or grade shall keep an itemized account of the cost of removal and if necessary, of ~~the~~ replacing of the bridge or grade ~~and~~. The actual cost ~~shall~~ must be paid by the district. ~~In ease~~ If the owner of the bridge or grade refuses to provide for the passage of the equipment, the managers may remove ~~such the~~ bridge or grade at the expense of the district, interrupting traffic in the least degree consistent with good work and without delay or unnecessary damage. ~~In ease~~ If the managers are prevented from doing so, the owner of the bridge or grade ~~shall be~~ is liable for the damages resulting from the delay.

#### 112.67 CONTRACTS OF COOPERATION AND ASSISTANCE.

The managers may ~~enter into~~ make contracts or other arrangements with the United States government, or any federal department ~~thereof~~, with persons, railroads, or other corporations, with public corporations, and the state government of this state or other states, or any state department ~~thereof~~, with drainage, flood control, soil conservation, or other improvement districts, in this state or other states, for cooperation or assistance in constructing, maintaining, and operating the works of the district, or for the control of ~~the its~~ its waters ~~thereof~~, or for making surveys and investigations or reports ~~thereon; and on them~~. The managers may purchase, lease, or acquire land or other property in adjoining states ~~in order to secure outlets;~~ to construct and maintain dikes or dams or other structures for ~~the accomplishment of~~ the purposes of this chapter.

#### 112.68 OTHER STATUTES APPLICABLE.

~~The provisions of Sections 471.59 and 471.64; are hereby made applicable~~ apply to districts organized under this chapter.

#### 112.69 CONSTRUCTION BY GOVERNMENTAL AGENCIES; PROCEDURE; CONVEYANCES TO FEDERAL GOVERNMENT.

Subdivision 1. **HEARING; APPRAISAL.** ~~Where~~ If an improvement is to be constructed within the district under a contract between the managers of ~~said~~ the district and the state of ~~Minnesota~~, or any state department ~~thereof~~, or by the United States of ~~America~~, or any federal department ~~thereof~~, ~~wherein, and if~~ the cost of ~~the~~ construction is to be paid ~~for~~ by the governmental agency but the

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rights-of-way, legal, and general expenses of the improvement are to be paid by the district, the managers shall forward a copy of the improvement plan to the board and director for their reports ~~thereon; thereupon, on it.~~

They shall then hold a public hearing on the proposed contract authorized by section 112.67 following publication of notice. Notice must be published once each week for two successive weeks ~~prior to~~ before the date of the hearing in a legal newspaper, published in the ~~county or~~ counties in which a part or all of the affected waters and lands are located. The last publication ~~shall~~ must occur at least ten days before the hearing. The notice ~~shall~~ must state the time and place of hearing, the general nature of the proposed improvement, ~~the~~ its estimated cost ~~thereof~~, and the area proposed to be assessed. ~~Not less than~~ At least ten days before the hearing, ~~notice by mail shall~~ must be given mailed to each resident owner, as shown on the county auditor's most recent records maintained for taxation purposes, within the area proposed to be assessed, and to the director and to each public body within the area to be assessed likely to be affected; ~~but~~. Failure to give mailed notice or defects in the notice ~~shall~~ do not invalidate the proceedings.

At the time and place specified in the notice the managers shall hear all interested parties ~~interested~~ for and against the proposed project or improvement ~~and~~. All questions relative ~~thereto shall to it~~ must be determined upon evidence presented at the hearing. If ~~upon full hearing~~ the managers find that the improvement will be conducive to public health and promote the general welfare, and ~~is in compliance~~ complies with the ~~provisions and purposes~~ of this chapter, they shall make findings accordingly ~~and~~, authorize the project, and ~~enter into~~ make the proposed contract or other arrangement. ~~Thereupon~~ The managers shall then appoint three disinterested freeholders of the state to act as appraisers. After the appraisers ~~so selected~~ subscribe to sign an oath to faithfully and impartially perform their duties, they shall, with or without the engineer, determine the benefits or damages to ~~all lands and properties~~ property affected by the proposed improvement. They shall make and file with the managers a detailed statement showing the actual damages that have resulted or will result to individuals, property, or corporations from the construction of the improvement ~~and~~. They shall make and file with the managers a detailed statement and list of ~~lands and other~~ property, including highways and corporations, receiving actual benefits by way of drainage, control of flood waters, or ~~by other means herein~~ authorized in this chapter.

Subd. 2. **HEARING ON APPRAISERS' REPORT.** Upon the filing of the appraisers' report and the plans and engineering data prepared by the governmental agency the managers shall prepare a detailed statement of all costs including damages to be incurred by the district in the construction of the improvement. They shall, within 35 days thereafter ~~by~~, order ~~fix~~ a time and place within the district for a hearing upon the appraiser's report. The managers shall ~~cause give~~ give notice ~~to be given~~ by publication and mailing as ~~above~~ provided in subdivision 1 for a hearing on a petition. At the time and place specified in the notice, the managers shall hear all parties interested for and against the

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confirming of the report; ~~and.~~ They may order and direct the modification of the assessment of benefits and damages, and amend or change the list of properties reported as benefited or damaged. If the amended reports include property not included in the original report, the managers shall adjourn and ~~cause to be published~~ publish and mailed mail as in the original notice the proper notice with reference to concerning all lands and properties not included in the previous notice. If upon full hearing the managers find that the benefits resulting from the construction will be greater than the assessments including damages they shall confirm the report. ~~All~~ Persons or public corporations affected by the order may appeal ~~therefrom as herein provided~~ it under this chapter.

Upon ~~the~~ filing by the managers with the auditor of ~~any a~~ county of a statement listing the property and corporations benefited or damaged or otherwise affected by ~~any an~~ improvement as found by the appraisers and approved by the managers, proceedings ~~shall be had as provided in~~ may be brought under section 112.60.

Section 112.47 ~~is not applicable~~ does not apply to works of the district constructed under contract as provided in this section.

Subd. 3. **TAKING LAND; PROCEEDING.** When ~~it is required that the board of managers are~~ required to acquire the fee simple estate or a lesser interest in real property ~~pursuant~~ according to this section or convey to the United States government the fee simple estate or a lesser interest in real property, the managers shall, ~~prior to before~~ the filing of the appraiser's report, record in the office of the county recorder of the county in which the lands are situated, a notice of the pendency of a proceeding initiated by the managers to acquire the lands to be conveyed to the United States government ~~which.~~ The notice ~~shall must~~ state the purpose for which the lands are to be taken. At least 20 days before the hearing upon the appraiser's report, notice of the hearing in addition to that required by subdivision 2 ~~hereof shall must~~ be served upon the owners of the property to be acquired, in the same manner as the summons in a civil action; ~~which.~~ The notice ~~shall must~~ describe the land, state by whom and for what purpose it is to be taken, and give the names of all persons appearing of record or known to the managers to be the owners. The notice ~~shall must~~ also state that appraisers have been appointed ~~in the manner as~~ provided by subdivision 1 ~~hereof,~~ to determine the benefits and damages, and that a hearing will be held by the managers ~~upon on~~ the appraiser's report at the time and place specified in the notice. When the managers have confirmed the appraiser's report listing the property benefited or damaged as provided in subdivision 2, the managers ~~shall~~ have all rights of possession and entry conferred in other cases of condemnation by chapter 117. ~~Thereafter~~ After confirmation, the attorney for the managers shall make a certificate describing the land taken; ~~and~~ the purpose for ~~which taken~~ the taking, and reciting the fact of payment of all awards ~~as determined by the appraisers appointed by the managers or judgments in relation thereto, which certificate, upon approval thereof to the land.~~ When approved by the managers, ~~shall establish~~ the certificate establishes the right of the watershed district in the lands taken ~~and shall.~~ It must be filed for record

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with the county recorder of the county ~~in which~~ containing the lands are situated; ~~which record shall be.~~ It constitutes notice to all parties of the title of the watershed district to the lands ~~therein~~ described in it. ~~Thereafter~~ The managers are authorized to may then convey ~~such~~ the lands and interests acquired to the United States government, if necessary.

#### 112.71 USE OF WATER, CONTRACTS; NOTICE, HEARING.

The rights ~~enjoyed by of private or corporate landowners, whether private or corporate,~~ to the use of the waters of the district for any purpose shall continue as they existed at the time of the organization of the district ~~and.~~ All ~~such~~ rights then existing ~~shall must~~ be recognized ~~and observed~~ by the managers, but when improvements made by the district make possible a greater, better, or more convenient use of or benefit from the waters of the district for any purpose, the right to ~~such the~~ greater, better or more convenient use of or benefit from ~~such waters shall be is~~ the property of the district; ~~and such.~~ The district may lease or assign the rights may be leased or assigned by the district in return for reasonable compensation, as provided ~~herein~~ in this section.

~~All~~ Leases, assignments, permits, or contracts for the use of water shall be entered into only after ~~a report has been made by~~ the managers of ~~such the~~ district have reported to the board ~~setting forth~~ the terms and conditions of the lease, permit, or contract relative to the use of any district property ~~of the district.~~ The secretary of the board shall give due notice ~~thereof of the contract~~ to all parties interested, by mail, and shall ~~cause to be published have~~ notice of the application; ~~stating therein published.~~ The notice must state the purpose of the application and the time and place of hearing ~~thereon on it.~~ At the time of hearing the board shall hear all interested persons for or against ~~such the~~ proposed contract and make its order accordingly ~~upon such on~~ conditions and restrictions ~~as may be necessary to protect the interest of the district and of the public.~~

#### 112.72 OTHER DRAINAGE LAWS, EFFECT OF REFERENCE.

~~Whenever reference is made herein to~~ When this chapter refers to particular sections of any drainage laws of this state ~~and sections thereof are referred to,~~ the sections and provisions shall, if ~~not inconsistent~~ consistent with this chapter, be treated and construed as having the same ~~force and~~ effect, so far as the provisions of this chapter are concerned, as though ~~herein~~ set forth in this chapter. ~~Any~~ Amendments of ~~such act or acts those~~ laws passed after the effective date of this chapter ~~shall~~ become applicable to this chapter.

#### 112.73 ANNUAL AUDIT.

The managers shall make ~~such the~~ reports ~~as are demanded by the state auditor.~~ The managers shall ~~cause to be made an annual audit of have~~ the books and accounts of the district audited annually. ~~Such~~ The audit may be made by either a public accountant or by the state auditor. If the audit is to be made by the state auditor it ~~shall~~ must be initiated by a petition of the resident

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freeholders of the district or resolution of the managers of the watershed district requesting ~~such the~~ audit pursuant to ~~under~~ the authority granted municipalities under ~~the provisions~~ of sections 6.54 and 6.55. If the audit is made by the state auditor the district receiving ~~such the~~ examination shall pay to the state the total cost and expenses of ~~such the~~ examination, including the salaries paid to the examiners while actually engaged in making ~~such the~~ examination. The revolving fund of the state auditor ~~shall must~~ be credited with all collections made for any ~~such the~~ examinations.

#### 112.74 EXISTING DISTRICTS MAY COME UNDER CHAPTER.

Any district heretofore organized ~~before~~ before April 23, 1955, under the provisions of Minnesota Statutes 1953, sections 111.01 to 111.42, or 112.01 to 112.33, may acquire the right to operate under and exercise all the rights and authority of this chapter, instead of the act under which it was organized; ~~upon the filing by~~. To do so, the governing board of ~~such the~~ district; ~~in the office of the court administrator of district court of the county in which its principal place of business is situate~~; must file a petition to the court asking that the district be granted ~~such the~~ authority. The petition must be filed in the office of the court administrator of the district court of the county where the governing body's principal place of business is located. The court administrator of district court, as directed by the judge, shall ~~thereupon fix~~ then set a time and place for hearing ~~upon on~~ the petition. Notice of the hearing ~~shall be given by publication~~ must be published for two successive weeks in a newspaper published in each county having territory within ~~such the~~ district. The court administrator ~~of district court~~ shall give written notice of the hearing to the secretary of the ~~water resources~~ board. If at the hearing the court finds that it is for the best interests of the district to be granted ~~such the~~ authority, it may by order grant ~~such the~~ petition. ~~Thereafter~~ The district may ~~then~~ exercise the authority provided for in this chapter. Thereafter, upon petition by the managers, the name of the district, ~~and~~ the number and distribution of ~~the board of its~~ managers of the same shall be as the ~~water resources~~ board shall ~~prescribe~~ prescribes after notice and hearing. The distribution shall take effect upon the expiration of term of office of the director of the conservancy district as the term of office of each director expires. The appointments shall be made by the county commissioners as provided in ~~Minnesota Statutes 1961~~, section 112.42, subdivision 3.

#### 112.76 CORPORATE EXISTENCE OF CERTAIN DISTRICTS; TERMINATION.

The corporate existence of any district organized under the provisions of Minnesota Statutes 1953, sections 112.01 to 112.33, wherein no work has been performed during the five-year period immediately ~~prior to~~ before April 23, 1955, shall be terminated unless within one year thereafter ~~such the~~ district makes application for authority to continue its corporate existence under the provisions of this chapter. The procedure to provide a record of the termination of a district shall must be ~~initiated~~ started by a petition from the ~~Minnesota water resources~~ board to the district court of the county ~~in which~~ where its

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principal place of business is ~~situated~~. ~~Said~~ The petition shall must contain a statement to the effect that no work was performed during the five-year period immediately prior to April 23, 1955 and that no application was made to continue the district's operation under this chapter. The court administrator of the district court, as directed by the judge, shall fix a time and place for hearing upon the petition. Notice of the hearing shall be given by publication for two successive weeks in a newspaper published in each county having territory within such district. If the court finds that the facts in the petition exist it shall issue an order finding the fact of the termination of the district. A copy of ~~such~~ the order shall be filed in the office of the secretary of state.

After April 23, 1955, no new district shall be organized under the provisions of Minnesota Statutes 1953, chapter 112.

The ~~above~~ procedure for termination shall apply with like force and effect in this section also applies to any a district organized under the provisions of Minnesota Statutes 1961, sections 111.01 to 111.42, ~~wherein~~ where no work has been performed during the 20-year period immediately ~~prior to~~ before May 21, 1965. After May 21, 1965, no new district shall be organized under the provisions of ~~Minnesota Statutes 1961~~, sections 111.01 to 111.42.

#### 112.761 PROCEEDINGS FOR ENLARGEMENT OF TO ENLARGE A DISTRICT.

Subdivision 1. **PETITION.** Proceedings ~~for the enlargement of~~ to enlarge an existing district shall must be initiated by a petition filed with the secretary of the board. The required signatures on a petition to enlarge shall ~~be~~ are the same as prescribed for a nominating petition; ~~provided, however, but~~ the percentages shall must be calculated only with reference to the territory ~~which that~~ is proposed to be added to the district. ~~Such~~ The petition shall must state:

- (1) that the area to be added is contiguous to the existing district;
- (2) that ~~it~~ the area can be feasibly administered by the managers of the existing district;
- (3) ~~the reasons why it~~ adding the area to the existing district would be conducive to the public health and welfare ~~to add the area to the existing district~~;
- (4) a map of the affected area;
- (5) the name of the enlarged district, if other than that of the existing district; and
- (6) a request for the addition of the proposed territory.

The petition shall must be served and the board shall must proceed ~~in a manner~~ as prescribed for a nominating petition. The requirement of notice, and public hearings shall ~~be~~ is as prescribed for the nominating petition. ~~Service of~~ The petition shall ~~be made upon~~ must be served on any affected watershed district.

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Subd. 2. **BOARD ORDER.** Upon the hearing, if it appears to the board that the enlargement of the district as ~~prayed~~ asked for in the petition would be for the public welfare and public interest and the purpose of this chapter, would be served, it shall, by its findings and order, enlarge the district and file a certified copy of ~~said~~ the findings and order with the secretary of state. The name of the district may be changed by order of the board if requested in the petition to enlarge the district.

Subd. 3. **DISTRIBUTION OF MANAGERS IN ENLARGED DISTRICT.** If the enlarged district, as ~~enlarged~~, affects more than one county, distribution of the managers among the counties affected shall be as directed by the board in the order enlarging the district.

#### 112.78 FAULTY NOTICES; EFFECT.

~~In any case where~~ When a notice is ~~provided for in this chapter~~ required for ~~any a~~ hearing or proceeding before the board, managers, or district court, if the board or managers or court finds that due notice was not given, it does not ~~thereby~~ lose jurisdiction, and the proceedings are not ~~thereby~~ invalid; ~~but~~. The board, managers, or court, in ~~such~~ that case, shall order notice to be given ~~and~~. They shall continue the hearing until ~~such time as~~ such notice shall be is properly given, and ~~thereupon shall then~~ proceed as though notice had been properly given in the first instance. ~~In case~~ If the original notice was faulty only with reference to publication as to certain tracts, only the persons interested in those particular tracts need be notified by a subsequent later notice. If the publication of ~~any a~~ notice in ~~any a~~ county was defective or not made in time, notice need be given only within the county in which notice was defective.

#### 112.79 HEARINGS; CONTINUANCES.

Whenever an order has been made and notice given for a hearing in any proceeding under this chapter, and the board or managers or court ~~fail~~ fails to appear at the time and place specified, the secretary of the board or managers or the court administrator of the district court shall continue the hearing to ~~such~~ either another date as ~~is deemed~~ necessary and notify the board or managers or the court of the continuance and the date of hearing. The matter shall be continued to ~~the that date fixed by the secretary of the board or any manager, or the court administrator,~~ without affecting the jurisdiction of the board ~~or~~, the managers, or the court.

#### 112.801 APPELLATE PROCEDURES AND REVIEW.

Subdivision 1. **WHAT CAN BE APPEALED.** An appeal may be had to the district court or to the ~~Minnesota water resources~~ board by any party, or jointly by more than one, aggrieved by an order of the managers made in any proceeding and entered upon its record determining any of the following matters:

- (1) the amount of benefits determined;

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- (2) the amount of damages allowed;
- (3) ~~Relative to~~ the allowance of fees or expenses in any proceedings;
- (4) ~~Which a matter that~~ affects a substantial right; or
- (5) an order of the ~~board~~ of managers authorizing or refusing to establish a project and improvement in whole or in part.

Subd. 2. **AMOUNTS AWARDED ON APPEAL ARE SUBSTITUTED.** In all cases of appeal, the amount awarded by the jury or the board as finally determined shall stand for and in the place of the amount from which the appeal was taken.

Subd. 3. **APPEALS FROM BOARD ORDERS.** If an appeal is taken from an order authorizing an improvement, the trial of any appeals from benefits or damages in ~~such the~~ proceedings ~~shall must~~ be stayed ~~pending the determination of such until the appeal is decided.~~ If the order authorizing ~~be is~~ affirmed, ~~any such the~~ appeal from benefits or damages ~~shall must~~ then stand for trial as provided by this section. If ~~such the~~ appeal ~~be is~~ from an order refusing to authorize an improvement, and if the court or the board ~~thereafter later~~ orders the improvement, the secretary of the district shall give notice by publication of the filing of the order. ~~Such The~~ notice ~~shall be is~~ sufficient if it refers to the proposed improvement by general description and recites the substance of the order and the date of filing in the court.

Subd. 4. **APPEALS CAN INVOLVE PROPERTY OTHER THAN APPELLANT'S OWN.** Any person or public corporation appealing ~~on the first or second grounds named in subdivision 1,~~ amount of benefits or damages may include and have considered and determined benefits or damages affecting property other than that person's own. Notice of ~~such the~~ appeal ~~shall must~~ be served upon the owner or occupant of ~~such the~~ other property or upon the attorney who represented ~~such the~~ owner in the proceedings. ~~Such The~~ notice of appeal ~~shall must~~ be served ~~upon on~~ the auditor of the county ~~wherein where~~ the property is ~~situated located~~ and ~~upon on~~ the court administrator of the district court of the county ~~wherein where~~ the principal place of business of the district is located, or upon the secretary of the board.

Subd. 5. **NOTICE OF APPEAL.** To ~~render make~~ the appeal ~~effective~~ effective, the appellant shall file a notice of appeal with ~~such the~~ court administrator of the district court or the secretary of the board. It must be filed within 30 days of the date of ~~such the~~ final order a notice of appeal which shall. It must state the grounds upon which the appeal is taken. The notice of appeal shall It must be accompanied by an appeal bond to the district where the property is ~~situate located~~ located of not less than at least \$250 to. The bond must be approved by the court administrator of the district court or the secretary of the board, as the case may be. The bond must be conditioned that the appellant will ~~duy~~ prosecute the appeal and, pay all costs and disbursements ~~which that~~ may be adjudged against the appellant, and abide comply with the order of the court or of the board, as the case may be.

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

Subd. 6. **TIME AND PLACE OF TRIAL.** The issues raised by the appeal shall stand for trial must be tried by a jury, or by the board at a time and place fixed by it or by a jury; and, if it is tried by a jury, shall it must be tried and determined at the next term of the district court held within the county in which the notice of appeal was filed, or in such other counties in which where the appeal shall be is heard, beginning after the filing of the appeal; and shall. Appeals take precedence over all other court civil matters of a civil nature.

If there is more than one appeal to the board involving the same project for improvement, or if there is more than one appeal triable in one county, the court or the board may, on its own motion or upon the motion of a party in interest, consolidate two or more appeals them and try them together, but the rights of the appellants shall must be separately determined. Consolidation may be on the court's or board's own motion or on the motion of a party in interest.

In case of appeal as to damages or benefits to property situate in the a county other than the county where the principal place of business of the district is located, and if the appellant so requests, the trial shall must be held at the next term of the district court of the county wherein containing the lands are situated. In such that case, the court administrator of the district court where the appeal is filed; shall make, certify and file in the office of the court administrator of district court of the county where the trial is to be had, a transcript of the papers and documents on file in the court administrator's office in the proceeding so far as they pertain to the matter on account of for which the appeal is taken. The court administrator shall certify the transcript and file it in the office of the court administrator of the district court in the county where the appeal will be tried. After the final determination of such the appeal, the court administrator of the district court where the action is tried shall certify and return the verdict to the district court of the county where the proceedings were instituted.

If the appeal is to the board, the board shall file its decision with the board's secretary thereof. If the appeal is taken to the board from the order of the managers, the decision of such the board may be reviewed by certiorari proceedings in the district court of a county in which the proposed project lies in whole or in part. If the appeal from the order of the managers is to the district court, and it appears to the court that there are involved facts, circumstances, or matters peculiarly or especially within the knowledge, functions, or duties of the Minnesota water resources board, the court may refer to such the board as referee questions of fact within the scope of such the board's knowledge, functions, and duties. Thereupon such The board shall make its findings of fact upon the questions of fact so submitted to it and report the same them back to the court.

Subd. 7. **TRIAL RECORD.** The board shall make a record of all matters tried by it on appeal or referred to it by the district court for findings of fact under the provisions of this section. Such The record shall must meet the requirements of a record of the trial of a matter in district court.

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

Subd. 8. **ADMINISTRATIVE PROCEDURE.** All Proceedings before the board shall be in conformity with must conform to sections ~~14.02, 14.04 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.62.~~

#### 112.82 AGGRIEVED PARTIES; RIGHTS.

Subdivision 1. **ESTABLISHMENT; APPEAL.** Any A party may appeal as in other civil cases if aggrieved by a final order or judgment ~~rendered given~~ on appeal to the district court, or by the original order of the court made in any proceedings heard and tried before the court may appeal as in other civil cases.

Subd. 2. **REPAIR; APPEAL.** In any a proceeding before the managers for the repair, improvement, maintenance, consolidation, or abandonment of any of the works of the district, the ~~same right of appeal shall be had~~ is the same as in other civil cases.

#### 112.84 DUE PROCESS OF LAW.

No person shall, under this chapter, be deprived or divested of any previously established beneficial uses or rights without due process of law.

#### 112.85 WITHDRAWAL OF TERRITORY.

Subdivision 1. **PETITION.** Proceedings to withdraw ~~any~~ territory from an existing district shall must be initiated by a petition filed with the secretary of the board. The required signatures on a petition for withdrawal shall ~~be are~~ the same as prescribed for a nominating petition, ~~provided, however, but~~ the percentages shall must be calculated only with reference to the territory ~~which that~~ is proposed to be withdrawn from the district. ~~Such~~ The petition shall must state that the territory ~~so~~ described has not received or will not receive any benefits from the operation of the district, that the district can perform the functions for which it was established without the inclusion of ~~said the~~ territory, and that ~~said the~~ territory is not, in fact, a part of the watershed. The petition shall must request the release of the described territory from the district.

The petition shall must be served and the board shall proceed ~~in a manner~~ as prescribed for a nominating petition. The requirements for notices and public hearings shall ~~be are~~ as prescribed for the nominating petition. ~~Service of~~ The petition shall ~~be made upon~~ must be served on any affected watershed district.

Subd. 2. **BOARD'S ORDER OF WITHDRAWAL.** Upon the hearing if it appears to the board that the territory as described in the petition has not and will not receive any benefit from the operation of the district and that the district can perform the functions for which it was established without the inclusion of ~~said the~~ territory, and that ~~said the~~ territory is not, in fact, a part of the watershed, the board may issue an order releasing the territory, or any part of ~~said territory it~~, as described in the petition. No lands shall be released which have been determined subject to any benefits or damages for any improvement previously constructed. ~~The~~ Territory so released shall ~~remain~~ remains liable

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for its proportionate share of any indebtedness existing at the time of the order. Levies on the lands ~~shall~~ continue in force until fully paid. If the board ~~shall~~ determine ~~determines~~ that the order prescribing the distribution of managers should be amended following the withdrawal of any territory it may so direct in the order authorizing the withdrawal.

#### 112.86 CONSOLIDATION OF DISTRICTS.

Subdivision 1. **PETITION.** Proceedings for the consolidation of two or more districts ~~shall~~ must be initiated by a petition filed with the board. The petition ~~shall~~ must be signed by each district affected and ~~shall~~ must state:

- (1) the names of the districts to be consolidated;
- (2) that the districts are adjoining;
- (3) that the consolidated districts can be feasibly administered as one district;
- (4) the proposed name of the consolidated district;
- (5) the reasons why it would be conducive to the public health, convenience and welfare to consolidate the districts; and
- (6) a request for the consolidation.

The petition ~~shall~~ must be served and the board shall proceed ~~in a manner~~ as prescribed for a nominating petition. The requirement of notice, and public hearings ~~shall be~~ are as prescribed for the nominating petition.

Subd. 2. **BOARD'S ORDER AND FINDINGS.** Upon the hearing, if it appears to the board that consolidation of the districts as ~~prayed for~~ asked in the petition would ~~be for~~ serve the public welfare ~~and~~, public interest and the purpose of this chapter; ~~would be served~~, it shall, by its findings and order, consolidate the districts ~~and~~. It shall file a certified copy of ~~said~~ the findings and order with the secretary of state. The name of the district may be changed by order of the board.

Subd. 3. **NEW MANAGERS.** The term of office of all managers of the districts consolidated shall end upon the order of consolidation. Distribution of the managers of the consolidated district shall be as directed by the board in the order of consolidation. ~~The~~ Five managers of the consolidated district ~~shall~~ must be appointed from the managers of the districts consolidated. ~~They shall be five in number and~~ Their first term shall be for one year; ~~thereafter~~. After that, they shall must be appointed as provided in this chapter.

Subd. 4. **DISTRICT ASSETS, LIABILITIES.** All ~~of the~~ assets, real and personal, of the districts involved and all legally valid and enforceable claims and contract obligations of the districts pass to the new district. Levies on the property of the districts consolidated ~~shall~~ continue in force until fully paid ~~and~~.

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All land ~~shall remain~~ remains liable for its proportionate share of any indebtedness existing at the time of the order.

Subd. 5. **NEW PLAN.** The overall plans of the existing districts ~~shall~~ become the overall plan of the consolidated district.

#### 112.87 DAMAGES; PAYMENT.

Section 117.155 ~~shall does~~ not apply to ~~any a~~ project ~~to be~~ financed by special assessment. When the damages for a project ~~to be~~ financed by special assessment are awarded and ~~duely~~ confirmed, the managers shall determine that the project's benefits exceed the total costs, including any damages awarded; ~~and~~ They shall amend its the project's statement filed with the county auditor ~~pursuant to~~ under section 112.60, subdivision 1, to reflect the amount of damages awarded. Before entering upon ~~any~~ property for which damages were awarded ~~in order to initiate the begin~~ construction of the project, the managers shall pay the amount of damages awarded less any assessment against the property from the funds provided by the county board ~~pursuant to~~ under section 112.60. ~~In ease of appeal of~~ If the amount of damages is appealed, no damages shall be paid until the final determination ~~thereof of the appeal~~.

#### 112.88 FEE FOR PERMIT; BOND.

Subdivision 1. **APPLICATION FEE.** A person applying for any ~~kind of~~ a permit required by the managers of a watershed district in a rule made ~~pursuant to~~ under section 112.43, subdivision 1, clause (17), shall accompany the application with a permit application fee ~~in an amount set by the managers not in excess of \$40~~ to defray the cost of recording and processing the application. The managers may set the fee, but it must not exceed \$10.

Subd. 2. **FIELD INSPECTION FEE.** The managers of a watershed district may charge, in addition, a field inspection fee of ~~not less than at least~~ \$35; which shall. It must be used to cover actual costs related to a field inspection; ~~including. These costs include~~ investigation of the area affected by the proposed activity, analysis of the proposed activity, services of a consultant, and any required subsequent monitoring of the proposed activity. Costs of monitoring an activity authorized by permit may be charged and collected as necessary after issuance of the permit.

Subd. 3. **GOVERNMENT AGENCIES EXEMPT.** The fees in subdivisions 1 and 2 ~~shall~~ must not be charged to an agency of the United States or ~~any a~~ governmental unit in this state.

Subd. 4. **BOND.** The managers of a watershed district may require an applicant for a permit to file a bond with the managers in an amount set by the managers and conditioned on performance by the applicant of authorized activities in conformance with the terms of the permit.

#### 112.89 ENFORCEMENT.

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



Subdivision 1. **MISDEMEANOR.** A violation of a provision of this chapter or a rule, order, or stipulation agreement made or a permit issued by the ~~board of managers of a watershed district pursuant to~~ under this chapter is a misdemeanor.

Subd. 2. **METHODS OF ENFORCEMENT.** A provision of this chapter or a rule, order, or stipulation agreement made or a permit issued by the ~~board of managers of a watershed district pursuant to~~ under this chapter may be enforced by criminal prosecution, injunction ~~pursuant to~~ under section 112.43, subdivision 2, action to compel performance, restoration, abatement, and other appropriate action.

#### ARTICLE 4

Section 1. Minnesota Statutes 1986, chapter 274, is amended to read:

##### 274.01 BOARD OF REVIEW.

Subdivision 1. **ORDINARY BOARD; MEETINGS, DEADLINES, GRIEVANCES.** (a) The town board of ~~each a town, or the council or other governing body of each a city, is the board of review~~ except in cities whose charters provide for a board of equalization; shall be a board of review. The county assessor shall fix a day and time when ~~each of such boards and the board or the board of equalization of any city whose charter provides for a board of equalization~~ shall meet in the several assessment districts of the county, ~~and shall.~~ On or before April ~~1st~~ 1 of each year ~~the assessor shall give written notice thereof of the time to the city or town clerk.~~ Such meetings Notwithstanding the provisions of any charter to the contrary ~~shall, the meetings must~~ be held between April ~~1st~~ 1 and June ~~30th~~ 30 each year; ~~and.~~ The clerk shall give published and posted notice of ~~such the meeting at least ten days prior to~~ before the date fixed of the meeting. ~~Such~~ The board shall meet at the office of the clerk to review the assessment and classification of property in ~~such the town or district, and immediately proceed to examine and see that all city.~~

(b) ~~The board shall determine whether the taxable property in the town or district city has been properly placed upon on the list, and duly properly valued by the assessor. In case any property, If real or personal shall have property has been omitted, the board shall place it upon on the list with its market value, and correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property, shall be is entered on the assessment list at its market value; but.~~ No assessment of the property of any person ~~shall may~~ be raised ~~until unless~~ the person has been duly notified of the intent of the board to do so to do. On application of any person feeling aggrieved, the board shall review the assessment or classification, or both, and correct it as ~~shall appear~~ appears just.

(c) A majority of the members may act at ~~such the~~ meeting, and adjourn

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from day to day until they finish ~~the~~ hearing ~~of all~~ the cases presented. The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but ~~shall~~ must not vote. The county assessor, or an assistant delegated by the county assessor shall attend ~~such~~ the meetings. The board shall list separately, on a form appended to the assessment book, all omitted property added to the list by the board and all items of property increased or decreased, with the market value of each item of property, added or changed by the board, placed opposite ~~such~~ the item. The county assessor shall enter all changes made by the board in the assessment book.

~~(b)~~ (d) If a person fails to appear in person, by counsel, or by written communication before the board after being duly notified of the board's intent to raise the assessment of the property, or if a person feeling aggrieved by an assessment or classification fails to apply for a review of the assessment or classification, the person may not appear before the county board of equalization for a review of the assessment or classification; ~~except when~~. This paragraph does not apply if an assessment was made ~~subsequent to~~ after the board meeting of the board, as provided in section 273.01, or ~~that if~~ if the person can establish not having received notice of market value at least five days before the local board of review meeting.

(e) The board of review; ~~and or~~ the board of equalization ~~of any city~~; ~~unless a longer period is approved by the commissioner of revenue~~; ~~shall~~ must complete its work and adjourn within 20 days from the time of convening ~~specified~~ stated in the notice of the clerk ~~and~~; ~~unless a longer period is approved by the commissioner of revenue~~. No action taken ~~subsequent to such~~ after that date ~~shall be~~ is valid. All complaints ~~in reference to any about an~~ assessment or classification made after the meeting of ~~such the~~ board; ~~shall~~ must be heard and determined by the county board of equalization. ~~Any A~~ nonresident may, at any time, before the meeting of the board of review file written objections to an assessment or classification with the county assessor ~~and if any such~~. The objections are filed they shall must be presented to the board of review at its meeting by the county assessor for its consideration.

Subd. 2. **SPECIAL BOARD; DUTIES DELEGATED.** The ~~council or other~~ governing body of ~~any a~~ city, including ~~cities a~~ city whose ~~charters provide~~ charter provides for a board of equalization, may appoint a special board of review ~~to which it~~. The city may delegate to the special board of review all of the powers and duties ~~specified~~ in subdivision 1. The special board of review shall serve at the direction and discretion of the appointing body, subject to the restrictions imposed by law ~~on the appointing body~~. The appointing body shall determine the number of members ~~to be appointed thereto~~ of the board, the compensation and expenses to be paid, and the term of office of each member. At least one member of the special board of review ~~shall~~ must be an appraiser, realtor, or other person familiar with property valuations in the assessment district.

#### 274.03 NOTICE OF MEETING.

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



submitted on or before the fourth Monday of June and ~~shall~~ must be verified by the assessor's affidavit, substantially in the following form:

"State of Minnesota )  
 ) ss.  
County of ..... )

I, ....., assessor of ....., ~~do~~ solemnly swear that the ~~recapitulation summary~~ summary attached ~~hereto to this affidavit~~ contains a correct and full statement of market and assessed valuations of real estate for the year 19....

.....  
Assessor

Subscribed Signed and sworn to before me this ..... day of ....., 19....

.....  
Auditor of ..... County."

A ~~true~~ copy of this ~~recapitulation~~ summary ~~shall~~ must be certified by the county assessor and promptly forwarded to the commissioner of revenue.

**274.05 AUDITOR'S ~~CERTIFICATE, WHERE FILED~~ CERTIFICATES.**

**Subdivision 1. AUDITOR'S CERTIFICATE OF ASSESSMENT BOOKS.**

Upon the return of the assessment books, ~~as provided for in~~ under section 274.04, the county auditor shall examine ~~such assessment books them;~~ and, if found in proper form, shall issue a certificate to the assessor, ~~setting forth the fact that such.~~ The certificate must state that the books are conformable to the provisions of comply with section 274.04. The assessor shall file ~~such the~~ certificate with the clerk of the town; ~~and no compensation shall be allowed such assessor, by.~~ The town board ; must not pay the assessor for services until the provisions of the assessor has complied with this section shall have been complied with.

**Subd. 2. AUDITOR'S CERTIFICATE OF SUMMARIES.** Upon receipt of On receiving the recapitulations of market and assessed valuations ~~provided for in~~ summaries under section 274.04, subdivision 2, the county auditor shall examine ~~such recapitulations; them~~ and, if found in proper form, shall issue a certificate to the assessor; ~~setting forth the fact that such recapitulations are conformable to the provisions of.~~ The certificate must state that the summaries comply with section 274.04, subdivision 2.

**274.07 LIST BY PERSON SICK OR ABSENT.**

If any person required to list property for taxation is prevented by sickness or absence from ~~giving to listing it with~~ listing it with the assessor ~~such statement, such the~~ person, or the person's agent ~~having in~~ having in charge of ~~such the~~ property, may; give the auditor a statement of the property value as required by this chapter at any time before the ~~extension of taxes thereon~~ are extended by the county auditor;

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make and deliver a statement of the same, as required by this chapter, to the auditor, who shall make an entry thereof. The auditor shall list the property and correct the corresponding items in the return made by the assessor, as the case may require; but, No such statement shall ~~may~~ be received from any person who refused or neglected to make oath attest to the statement when required by the assessor; ~~nor~~. No statement may be received from any person, unless the person makes and files therewith with it an affidavit of absence from the town or district without design to avoid the listing of the property, or was prevented by sickness from giving to the assessor the required statement when ~~called on for that purpose~~ asked to do so.

#### 274.08 CORRECTION OF BOOKS.

The county auditor shall carefully examine the assessment books ~~returned~~. If any property has been omitted, the auditor shall enter ~~the same upon it on~~ the proper list, and forthwith. The auditor shall notify the assessor making such of the omission; ~~who~~. Upon notification, the assessor shall immediately ascertain determine the value thereof of the omitted property and correct the original return. ~~In case of the inability or neglect of~~. If the assessor to does not perform this duty, the auditor shall ascertain determine the value of such the property and make the necessary corrections.

#### 274.09 CORRECTION OF FALSE LISTS AND RETURNS.

If the county auditor ~~has reason to believe or is informed~~ believes that any person has given to the assessor a false statement of personal property, or that the assessor has not returned the full amount of all property required to be listed in the assessor's town or district, or has omitted, or made an erroneous return of, any property subject to taxation, the auditor shall ~~proceed~~, correct the return of the assessor. At any time before the final settlement with the county treasurer, ~~to correct the return of the assessor, and to~~ the auditor shall charge the owners of such the property on the tax lists with the proper amount of taxes.

For ~~such purpose~~ purposes of this section the county auditor may issue compulsory process, require the attendance of any person supposed to have a knowledge of the property, or its value, and ~~may examine such the~~ person, on oath, ~~in relation to such about~~ the statement or return. ~~In all such cases,~~ Before making the entry on the tax list, the county auditor shall notify the person required to list the property of the right to ~~have an opportunity to~~ show that the person's statement or the return of the assessor is correct; ~~and~~. The county auditor shall file in the auditor's office a statement of the facts or evidence upon which the auditor made such the corrections. ~~In no case shall~~ The county auditor must not reduce the amount returned by the assessor without the written consent of the commissioner of revenue, ~~on a statement of the case~~. A statement supporting the reduction must be submitted by the county auditor or the party aggrieved to the commissioner of revenue.

#### 274.10 PROPERTY OMITTED OR UNDERVALUED.

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

Subdivision 1. **EXAMINER; APPOINTMENT, DUTIES.** The governor shall appoint an examiner when it shall be made to appear appears to the governor by on a verified complaint, or by the finding of a court or of the legislature, or any committee thereof of the legislature, that any a considerable amount of property in any county has been improperly omitted from the tax lists and assessment roll of such the county for any a year; or, if assessed, that the same property has been grossly undervalued by the assessor or other county officials, whether or not such the assessment has been reviewed by the county board of equalization; the governor shall appoint, The appointment must be in writing; some. The appointee must be a competent citizen of the state, but not a resident of such the county; as examiner, to ascertain. The person appointed shall determine the character, location, value, and ownership of the real and personal property in such the county so omitted or undervalued; who; Before entering upon duties; The person shall take an oath to faithfully to perform such the duties.

Such The person shall forthwith examine the subject, and prepare a report, in duplicate; attaching thereto. A list must be attached to the report, showing the character, location, ownership, and valuation of all such property; with the year or years for which the same, or any part thereof; that has been omitted or undervalued. The list must state the years or part of years that the property has been omitted or undervalued. Such The list shall also must show opposite each piece or parcel of land or item of personal property undervalued, the amount of the assessment, and the its actual and market value thereof at the time the same it should have been assessed, and the difference between the its assessed and the actual value thereof as so found. On or before January first 1, in the assessment year in which any such assessment is to be made, the examiner shall file one duplicate the report and list with the county auditor of such county; and the other with the commissioner of finance. Such Lists shall must be verified substantially; as follows:

"I, ....., do solemnly swear that I have personally examined the real and personal property in the foregoing attached list described, and that the same it is a correct and full list of all the real and personal property subject to taxation in said the county, and omitted from taxation for the years therein stated in it, or, if assessed for said those years, grossly undervalued, so far as I have been able to ascertain the same; and that the character, location, ownership, and valuation thereof of the property as set down in the proper column, opposite the several kinds and pieces of property, are just and true correct, to the best of my knowledge and belief."

Subd. 2. **DEPUTIES; APPOINTMENT, DUTIES.** Such examiner, When necessary to properly perform duties within the time prescribed by law, with the approval of the governor, the examiner may appoint one or more well-qualified citizens of the state as deputies to assist in the performance of examiner's duties. These The deputies shall perform such the duties as shall be assigned them by the examiner; first taking. The deputies must take an oath to faithfully to perform such the duties.

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

Subd. 3. **COMPENSATION OF EXAMINER AND DEPUTIES.** ~~Such~~ The examiner shall receive be paid \$3 for services \$3, and each deputy shall be paid \$2, for every day in which they are necessarily employed in the performance of their duties; and. The examiner and deputies shall be paid their necessary expenses. Upon the approval by the governor, such the compensation and expenses shall must be paid out of the general fund in the state treasury. The respective counties shall reimburse the state therefor two years after the same are incurred payments are made. The state auditor shall notify the county auditor of such county of the amount thereof, whereupon to be paid. The county auditor shall levy a tax on the taxable property in the county sufficient to pay the same; and, it. When collected, the proceeds thereof shall be forthwith of the tax must be paid into the state treasury in the same manner as like other state taxes.

#### 274.11 TAXES A LIEN ON PROPERTY IN EXAMINER'S LIST.

The taxes upon ~~all~~ the property ~~named in on~~ named in on the list of the examiner appointed as provided in under section 274.10, and found to have been omitted from or undervalued in the tax list for any year, ~~shall be is~~ is a lien upon all the real property owned in ~~such the~~ such county by any person named in ~~such duplicate list in it~~ it as the owner thereof, ~~from the time when such list shall be.~~ The lien attaches at the time the list is filed with the county auditor until the same. The lien continues until the taxes are paid; and. The lien may be satisfied out from the proceeds of the sale of any property in such the county owned by any the person so assessed.

#### 274.12 DUTIES OF AUDITOR AND ASSESSORS.

Upon the receipt of ~~any such the~~ any such the examiner's list, the county auditor shall enter the property ~~therein~~ described in it in the real and personal property assessment books; ~~and,.~~ and,. Upon receiving ~~such the~~ such the books from the auditor, the assessor shall assess the property ~~so entered in it~~ entered in it at its market value as shown by ~~such the~~ such the list. A copy of ~~which shall the list must~~ which shall the list must be furnished to the assessor with the assessment books of the district. The assessor shall also make the necessary corrections in any assessment ~~theretofore made so as to make the same made before receipt of the list to~~ theretofore made so as to make the same made before receipt of the list to correspond with the market value of the property ~~as returned shown in such the~~ as returned shown in such the list, and correct the returns accordingly. The auditor shall proceed ~~thereon as provided by under~~ thereon as provided by under sections 273.02 and 274.09. On finding from ~~any such the~~ any such the examiner's list that any property has been omitted from or undervalued in the lists of any prior year or years, the auditor shall ~~forthwith enter the same it~~ forthwith enter the same it on the assessment and tax books for the year or years ~~in which the same it~~ in which the same it was omitted or undervalued; ~~and shall assess such.~~ and shall assess such. The omitted and undervalued property must be assessed at the valuation and amounts ~~so shown; and extend on the list.~~ so shown; and extend on the list. The arrearages of taxes on ~~such the~~ such the property accruing against ~~the same it must be extended~~ the same it must be extended upon the tax list for the current year, and collect the same as collected like other taxes. ~~Any An~~ Any An assessor or county auditor who shall neglect neglects to perform ~~any a~~ any a duty required by under this section ~~shall be is~~ is guilty of a misdemeanor; ~~and,.~~ and,. In addition to the

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usual penalty, ~~shall be the assessor or auditor is~~ liable on official bond for all taxes on ~~any and all the property named in such on the~~ examiner's list.

#### 274.13 COUNTY BOARD OF EQUALIZATION.

Subdivision 1. MEMBERS; MEETINGS; RULES FOR EQUALIZING ASSESSMENTS. (a) The county commissioners, or a majority of them, with the county auditor, or, if the auditor cannot be present, the deputy county auditor, or, if there ~~be is~~ no ~~such~~ deputy, the court administrator of the district court, shall form a board for the equalization of the assessment of the property of the county, including the property of all cities whose charters provide for a board of equalization. The board shall meet annually, on the date specified in section 274.14, at the office of the auditor ~~and~~. Each member ~~having taken shall take~~ an oath ~~to~~ fairly and impartially ~~to~~ perform duties as ~~such~~; a member. The board shall examine and compare the returns of the assessment of property of the ~~several~~ towns or districts, and equalize ~~the same~~ them so that each tract or lot of real property and each article or class of personal property ~~shall be is~~ entered on the assessment list at its market value, subject to the following rules:

(1) The board shall raise the valuation of each tract or lot of real property which in its opinion is returned below its market value to ~~such the~~ sum as is believed to be the its market value ~~thereof~~. The board must first, giving give notice of intention to ~~do so~~ raise the valuation to the person in whose name it is assessed, if the person is a resident of the county, ~~which~~. The notice shall must fix a time and place ~~when and where for a hearing will be had~~;

(2) The board shall reduce the valuation of each tract or lot which in its opinion is returned above its market value to ~~such the~~ sum as is believed to be the its market value ~~thereof~~;

(3) The board shall raise the valuation of each class of personal property which in its opinion is returned below its market value to ~~such the~~ sum as is believed to be the its market value ~~thereof~~; ~~and~~. It shall raise the aggregate value of the personal property of individuals, firms, or corporations, when it believes that ~~such the~~ aggregate valuation, as returned, is less than the market value of the taxable personal property possessed by ~~such the~~ individuals, firms, or corporations, to ~~such the~~ sum as it believes to be the market value ~~thereof~~. The board must first giving give notice to ~~such the~~ persons of intention to do so, ~~which~~. The notice shall fix must set a time and place ~~when and where for a hearing will be had~~;

(4) The board shall reduce the valuation of each class of personal property ~~enumerated listed~~ in section 273.49 ~~which that~~ is returned above its market value to ~~such the~~ sum as it believes to be the its market value ~~thereof~~; ~~and~~. Upon complaint of ~~any a~~ party aggrieved, the board shall reduce the aggregate valuation of the individual's personal property of ~~such individual~~, or of any class of personal property for which the individual is assessed, which in its opinion has been assessed at too large a sum, to ~~such the~~ sum as it believes was the market value of the individual's personal property of ~~such that~~ class;

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(5) The board ~~shall~~ must not reduce the aggregate value of all the property of its county, as submitted to the county board of equalization, with the additions made ~~thereto~~ by the auditor as ~~in~~ under this chapter ~~required~~, by more than one percent of ~~the~~ its whole valuation ~~thereof~~; ~~but~~. The board may raise the aggregate valuation of ~~such~~ real property, and of each class of personal property, of the county, or of any town or district ~~thereof~~ of the county, when it believes ~~the same~~ it is below the market value of the property, or class of property, to ~~such~~ the aggregate amount as it believes to be ~~the~~ its market value ~~thereof~~.

(6) The board shall change the classification of any property which in its opinion is not properly classified.

(b) Subd. 1a. FAILURE TO APPEAR OR APPEAL. If a person, other than a public utility, mining company, or the metropolitan airport commission for which the original assessments are determined by the commissioner of revenue, fails to appear in person, by counsel, or by written communication before the county board after being duly notified of the board's intent to raise the assessment of the person's property, or if a person fails to appeal a decision of the board of review as described in section 274.01 ~~subsequent to appearance~~ after appearing before the local board, the person may not appear before the commissioner of revenue as ~~provided for in~~ under section 270.11, subdivisions 5 and 6, to contest the valuation.

Subd. 2. SPECIAL BOARD; DELEGATED DUTIES. The board of equalization for any county as ~~it is~~ duly constituted, may appoint a special board of equalization ~~to which it~~ and may delegate ~~all of~~ to it the powers and duties ~~specified~~ in subdivision 1. The special board of equalization shall serve at the direction and discretion of the appointing county board, subject to the restrictions imposed by law on the appointing board. The appointing board may determine the number of members to be appointed ~~thereto~~ to the special board, the compensation and expenses to be paid, and the term of office of each member. At least one member of the special board of equalization ~~shall~~ must be an appraiser, realtor, or other person familiar with property valuations in the county. The county auditor ~~shall be~~ is a nonvoting member and ~~serve~~ serves as the recorder for the special board.

#### 274.14 LENGTH OF SESSION; RECORD.

The county board of equalization or the special board of equalization appointed by it may continue in session and adjourn from time to time ~~commencing~~ starting on the first Monday ~~following the fourth day of~~ after July 4, or, if the first Monday ~~following the fourth day of~~ after July 4 is a legal holiday, the first Tuesday ~~following the fourth day of~~ after July 4, and ending on or before the tenth following working day, when it shall adjourn ~~and~~. No action taken ~~subsequent to~~ after the day of adjournment ~~shall be~~ is valid unless a longer session period is approved by the commissioner of revenue. The commissioner may extend the session period to August 10 but no action taken by the county board

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of review after the extended termination date ~~shall be~~ is valid. The county auditor shall keep an accurate record of the proceedings and orders of the board; ~~which.~~ The record shall ~~must~~ be published in the same manner as like other proceedings of county commissioners. A copy of ~~such~~ the published record shall ~~must~~ be transmitted ~~sent~~ to the commissioner of revenue, with the abstract of assessment required by section 274.16.

#### 274.16 CORRECTED LISTS, ABSTRACTS.

The county assessor or, in Ramsey county, the official designated by the board of county commissioners shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly, in the real or personal lists, or both, and shall make duplicate abstracts of ~~the same; them.~~ One shall ~~must~~ be filed in the assessor's office, and one shall ~~must~~ be forwarded to the commissioner of revenue ~~on or before~~ by August 1.

#### 274.17 RECORD; ABSTRACT TO COUNTY AUDITORS.

The secretary shall keep a record of the proceedings of the county board of equalization; ~~which shall.~~ The record ~~must~~ be published in the annual report of the commissioner of finance and. Upon final adjournment the secretary shall ~~transmit to~~ send each county auditor an abstract of ~~such~~ the proceedings, specifying: (1) the percent added to or deducted from the valuation of the real property of each of the ~~several~~ towns and cities, and of the real property not in towns or cities, in case an equal percent has not been added to or deducted from each; ~~and specifying also~~ (2) the percent added to or deducted from the ~~several~~ classes of personal property in each of the towns and cities; ~~and specifying also~~ (3) the amounts added to the assessments of individuals, firms, or corporations.

The county auditor shall add to or deduct from each tract or lot of real property in the county the required percent on the valuation ~~thereof, as it stood~~ of the property after equalization by the county board, ~~adding in each case any fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no valuation of any~~ rounding the value of each separate tract or lot ~~shall contain a fraction of a~~ to the nearest dollar; and. The county auditor shall also add to or deduct from the ~~several~~ classes of personal property in the county the required percent on the valuation ~~thereof, as it stood~~ of the property after equalization by the county board; ~~adding or deducting in manner aforesaid any fractional sum, so that no valuation of any~~ rounding the value of each separate class of personal property ~~shall contain a fraction of a~~ to the nearest dollar; and. The county auditor shall also add to the assessments of individuals, firms, and corporations; ~~as they stood~~ after equalization by the county board, the required amounts.

#### 274.18 ABSTRACT OF REALTY ASSESSMENT ROLL TO TOWN CLERKS.

On or before the first Tuesday of March, in each year, the county auditor shall make out and ~~transmit~~ send to each town clerk in the county a certified

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copy or abstract of the real estate assessment roll of ~~such~~ the town, as equalized by the county and state boards of equalization.

#### 274.19 ASSESSMENT OF MANUFACTURED HOMES.

Subdivision 1. **VALUATION; NOTICE.** ~~The provisions of Subdivisions 1 to 7 apply to manufactured homes that are assessed under subdivision 8, clause paragraph (c). Each manufactured home shall must be valued each year by the assessor and be assessed with reference to its value on January 2 of that year. Notice of the value shall must be mailed to the person to be assessed at least ten days before the meeting of the local board of review or equalization. The notice shall must contain the amount of valuation in terms of market value, the assessor's office address, and the date, place, and time set for the meeting of the local board of review or equalization and the county board of equalization.~~

Subd. 2. **RETURN ASSESSMENT BOOKS; SET TAX.** On or before May 1, the assessor shall return to the county auditor the assessment books relating to the assessment of manufactured homes. After receiving the assessment books, the county auditor shall determine the tax to be due by applying the rate of levy of the preceding year and shall ~~transmit~~ send a list of the taxes to the county treasurer not later than May 30.

Subd. 3. **TAX STATEMENTS; PENALTIES; COLLECTIONS.** Not later than July 15 in the year of assessment the county treasurer shall mail to the taxpayer a statement of tax due on a manufactured home. The taxes ~~shall be~~ are due on the last day of August. Taxes remaining unpaid after the due date ~~shall be deemed~~ are delinquent, and a penalty of eight percent ~~shall~~ must be assessed and collected as part of the unpaid taxes. On September 30 the county treasurer shall make a list of taxes remaining unpaid and shall certify the list immediately to the court administrator of district court; ~~who~~. The court administrator shall issue warrants to the sheriff for collection.

Subd. 4. **PETITIONS OF GRIEVANCE.** ~~Any~~ A person who claims that the person's manufactured home has been unfairly or unequally assessed, or that ~~such~~ the property has been assessed at a valuation greater than its real or actual value, or that the tax levied against ~~the same~~ it is illegal, in whole or in part, or has been paid, or that the property is exempt from the tax so levied, may have the validity of the claim, defense, or objection determined in court. The determination must be made by the district court of the county in which the tax is levied or by the tax court. A person can request the determination by filing a petition for such determination; it in the office of the court administrator of the district court on or before ~~the first day of~~ September 1 of the year in which ~~such~~ the tax becomes payable. A petition for determination under this section may be transferred by the district court to the tax court.

Subd. 5. **CONTINUING WITH PETITION.** The right to continue prosecution of the petition ~~shall be~~ is conditioned upon the payment of the tax when due unless the court permits the petitioner to continue ~~prosecution of the petition~~ prosecution of the petition without payment, or with a reduced payment, ~~pursuant to~~ under section

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277.011, subdivision 3. ~~The petitioner,~~ Upon ten days notice to the county attorney and to the county auditor, given at least ten days ~~prior to~~ before the last day of August, the petitioner may apply to the court for permission to continue prosecution of the petition without payment or with a reduced payment.

Subd. 6. **CORRECTING TAX.** If the local board of review or equalization or the county board of equalization ~~change~~ changes the assessor's valuation of a manufactured home, the change ~~shall~~ must be ~~transmitted~~ sent to the county auditor; ~~who,~~ The auditor shall immediately recompute the tax and advise the treasurer of the corrected tax. If the property is entitled to homestead classification, the auditor shall ~~also take appropriate action to reflect the reduction in~~ reduce the tax accordingly.

Subd. 7. **PERSONAL PROPERTY.** The tax assessed on manufactured homes ~~shall be deemed to be~~ is a personal property tax ~~and.~~ Laws relating to assessment, review, and collection of personal property taxes ~~shall be applicable~~ apply to this tax, if ~~not inconsistent~~ consistent with ~~provisions in~~ this section.

Subd. 8. **MANUFACTURED HOMES; SECTIONAL STRUCTURES.** (a) ~~For purposes of~~ In this section, a "manufactured home" means a structure transportable in one or more sections, which is built on a permanent chassis, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and contains the plumbing, heating, air-conditioning, and electrical systems ~~therein, including in it.~~ "Manufactured home" includes any accessory structure ~~which that~~ is an addition or supplement to the manufactured home and, when installed, becomes a part of the manufactured home.

(b) A manufactured home ~~which that~~ meets each of the following criteria must be valued and assessed as an improvement to real property, the appropriate real property classification ~~shall apply~~ applies, and the valuation is subject to review and the taxes payable in the manner provided for real property:

(i) (1) the owner of the unit holds title to the land ~~upon~~ on which it is situated;

(ii) (2) the unit is affixed to the land by a permanent foundation or is installed at its location in accordance with the manufactured home building code ~~contained~~ in sections 327.31 to 327.34, and the rules adopted ~~thereto~~ under those sections, or is affixed to the land ~~in a manner comparable to~~ like other real property in the taxing district; and

(iii) (3) the unit is connected to public utilities, has a well and septic tank system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.

(c) A manufactured home ~~which that~~ meets each of the following criteria must be assessed at the rate provided by the appropriate real property classification but must be treated as personal property, and the valuation is subject to review and the taxes payable ~~thereon~~ in the manner provided in this section:

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(i) ~~(1)~~ the owner of the unit is a lessee of the land ~~pursuant to~~ under the terms of a lease;

(ii) ~~(2)~~ the unit is affixed to the land by a permanent foundation or is installed at its location in accordance with the manufactured homes building code contained in sections 327.31 to 327.34, and the rules adopted ~~thereto~~ under those sections, or is affixed to the land ~~in a manner comparable to~~ like other real property in the taxing district; and

(iii) ~~(3)~~ the unit is connected to public utilities, has a well and septic tank system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.

(d) Sectional structures must be valued and assessed as an improvement to real property if the owner of the structure holds title to the land ~~upon~~ on which it is located or is a qualifying lessee of the land ~~under the provisions of~~ section 273.19. ~~For purposes of~~ In this paragraph "sectional structure" means a building or structural unit ~~which~~ that has been in whole or substantial part manufactured or constructed at an off-site location to be wholly or partially assembled on-site alone or with other units and attached to a permanent foundation.

(e) The commissioner of revenue may adopt rules ~~pursuant to~~ under the administrative procedure act ~~for the purpose of establishing to~~ establish additional criteria for the classification of manufactured homes and sectional structures under this subdivision.

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## ARTICLE 5

Section 1. Minnesota Statutes 1986, chapter 276, is amended to read:

### 276.01 DELIVERY OF LISTS TO TREASURER.

On or before the first business day in January in each year, the county auditor shall deliver the lists of the ~~several~~ districts of the county to the county treasurer; ~~taking therefor and get~~ the treasurer's receipt; ~~showing for them.~~ The lists must show the total amount of taxes due ~~upon the lists.~~ Where the names of taxpayers appear in the property tax lists, the county auditor shall show the ~~taxpayers'~~ addresses of such taxpayers. ~~Such~~ The lists shall be ~~are~~ authority for the treasurer to ~~receive and collect~~ the taxes therein levied ~~shown on the list.~~

In counties in which an election has been made ~~that~~ have elected to come under the provisions of section 273.03, subdivision 2, the auditor shall, ~~during the year in which such~~ when the county treasurer possesses the lists as provided for in section 275.28, subdivision 3, are in the possession of the county treasurer; ~~the county auditor shall~~ have access ~~thereto for the purposes of changing to the lists to change~~ the market valuations and the classifications of real estate ~~contained therein which~~ in the lists that the auditor would have been required to

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change ~~or otherwise amend~~ in the assessment books provided for in section 273.03, subdivision 1, except for the election to discontinue the preparation of ~~such the~~ assessment books. The county auditor ~~shall be~~ is the official custodian of ~~such the~~ lists after the year ~~during which~~ when they are in the county treasurer's possession.

#### [276.015] TREASURER TO PUBLISH TAX RATES.

On receiving the tax lists from the county auditor, the county treasurer shall give three weeks' published notice of the tax rates if directed by the county board. Notice must be given in a newspaper. It must specify the rates of taxation for all general purposes and the amounts raised for each specific purpose.

#### 276.02 TREASURER TO BE COLLECTOR.

The county treasurer shall ~~be the receiver and collector of~~ collect all the taxes extended ~~upon on~~ the tax lists of the county; ~~whether levied for state, county, city, town, school, poor, bridge, road, or other purposes and of all the~~ fines, forfeitures, or penalties received by any person or officer for the use of the county. The treasurer shall ~~proceed to collect the same taxes according to law and place the same when collected to the credit of them to~~ the proper funds. This section ~~shall~~ does not apply to fines and penalties accruing to municipal corporations for the violation of their ordinances ~~which that~~ are recoverable before a city justice. The county board may by resolution authorize the treasurer to impose a charge for any dishonored checks.

#### 276.03 TREASURER TO COLLECT LOCAL ASSESSMENTS.

Any A county treasurer in this state ~~now empowered~~ authorized by law to collect local assessments made or levied by ~~any a~~ city in this state is hereby required to shall collect all assessments for local improvements made or levied and certified to the treasurer by ~~any such the~~ city against any specific tract or parcel of land at The assessment must be collected at the same time ~~that any as~~ taxes are collected ~~which have been or may be levied against the same that~~ tract or parcel of land under the general laws of this state.

#### 276.04 NOTICE OF RATES; PROPERTY TAX STATEMENTS.

~~On receiving the tax lists from the county auditor, the county treasurer shall, if directed by the county board, give three weeks' published notice in a newspaper specifying the rates of taxation for all general purposes and the amounts raised for each specific purpose.~~

Subdivision 1. REQUIREMENTS OF TAX STATEMENTS. (a) The treasurer shall, ~~whether or not directed by the county board, cause to be~~ have printed on all tax statements, or on an attachment, a tabulated statement of the dollar amount due to each taxing authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the

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county, township, or municipality, and school district ~~shall~~ must be separately stated ~~but~~. The amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section, whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement ~~shall~~ must include the following sentence, printed in upper-case letters in boldface print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT."

(b) The property tax statements for manufactured homes and sectional structures taxed as personal property ~~shall~~ must contain the same information that is required on the tax statements for real property.

(c) Real and personal property tax statements must contain the market value, as defined in section 272.03, subdivision 8, used in determining the tax. The statement must show the amount attributable to section 124.2137 as "state paid agricultural credit" and the amount attributable to section 273.13, subdivisions 22 and 23 as "state paid homestead credit."

(d) The treasurer of each county may have a statement printed on all current tax statements, or on an attachment, showing the number of mills of the current tax apportioned to the state, county, city, town, or school district.

Subd. 2. MAILING OF TAX STATEMENTS. The county treasurer shall mail to taxpayers statements of their personal property taxes due; ~~such~~. The statements to must be mailed ~~not later than~~ by February 15 (except in the case of manufactured homes and sectional structures taxed as personal property); Statements of the real property taxes due shall be mailed not later than January 31; ~~provided, that~~. The validity of the tax ~~shall~~ is not be affected by failure of the treasurer to mail ~~such~~ the statement. The taxpayer is defined as the owner who is responsible for the payment of the tax. ~~Such real and personal property tax statements shall contain the market value, as defined in section 272.03, subdivision 8; used in determining the tax. The statement shall show the amount attributable to section 124.2137 as "state paid agricultural credit" and the amount attributable to section 273.13, subdivisions 22 and 23 as "state paid homestead credit."~~ Failure to mail the tax statement is not a material defect affecting the validity of a judgment and sale for delinquent taxes.

Subd. 3. COLLECTION SITES. If ~~so~~ directed by the county board, the treasurer shall visit places in the county as the treasurer deems expedient for the purpose of receiving to collect taxes and. The county board is authorized to may pay the expenses of ~~such~~ the visits and of preparing duplicate tax lists. ~~Failure to mail the tax statement shall not be deemed a material defect to affect the validity of any judgment and sale for delinquent taxes.~~

#### 276.041 FILING TO RECEIVE NOTICE OF DELINQUENT TAXES.

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

Fee owners, vendees, mortgagees, lienholders, and lessees of real property may file their names and current mailing addresses with the county auditor in the county ~~in which~~ where the land is located for the purpose of receiving notices affecting such the land that are issued ~~pursuant to~~ under sections 276.04, 281.23, and 279.091. Each A person filing shall pay a filing fee of \$15 to the county auditor for each parcel. The filing ~~shall expire~~ expires after three years. ~~Persons may refile their names and addresses for additional three-year periods, and a fee of \$15 shall be paid with each refile.~~ The county auditor shall ~~furnish~~ give a copy of the list of names and addresses to the county treasurer. Taxpayers of record with the county auditor and mortgagees who remit taxes on their behalf shall receive tax statements and other notices ~~as otherwise provided by law and shall~~ are not be required to file and pay fees under this section.

#### 276.05 ADDRESSES OF PAYER GIVEN ON TAX RECEIPTS FOR TAX PAYMENTS.

The county treasurer may issue receipts showing payment of the tax ~~except that upon the payment of any.~~ If the tax is paid in currency or if the payer requests a receipt, the county treasurer shall ~~give to the person paying a receipt therefor, showing a receipt.~~ The receipt must show the name and post office address of the person, the amount and date of payment, the land, lot, or other property on which the tax was levied, according to its description on the tax list or in some other sufficient manner, and the year or years for which the tax was levied. If for current taxes on real estate, the receipt ~~shall~~ must have written or stamped across its face, "taxes for" (giving the year in figures), or "first half of taxes for" (giving the year in figures), or "last half of taxes for" (giving the year in figures), as the case may be. If land has been sold for taxes either to a purchaser, or to the state, and the time for redemption from ~~such the~~ the sale has not expired, the receipt for ~~such taxes shall~~ must have written or stamped across the face, "sold for taxes." The treasurer shall make duplicates of all receipts and return ~~all such the~~ the duplicates at the end of each month to the county auditor; ~~who.~~ The auditor shall file and preserve them in the auditor's office, charging the treasurer with the amount ~~thereof~~ on the receipts.

#### 276.06 TAX STATEMENTS TO STATE APPORTIONMENT OF TAXES.

The treasurer of each county may ~~cause to be printed, stamped, or written on the back of all current tax statements, or on a separate sheet or card to be furnished with the statements, a statement showing the number of mills of the current tax apportioned to the state, county, city, town, or school district.~~ Renumbered 276.04, subdivision 1, paragraph (d).

#### 276.07 UNDIVIDED INTEREST; PAYMENT AND RECEIPT.

Any A person holding an undivided interest in ~~any taxable real property in this state listed for taxation,~~ including mortgagees, lessees, and others, who by law or contract are required or entitled to pay taxes to protect any right, title, interest, claim, or lien held by them in, to, or upon ~~undivided interests in land it,~~ may pay the taxes on ~~such the~~ the undivided interests; ~~and on such payment.~~

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The county treasurer may issue a receipt for the amount ~~so~~ paid and specify the interest ~~so~~ paid ~~on~~, and, The treasurer shall enter on the tax list the name of the person who paid such the taxes and the undivided interest paid, and shall report the payment and nature of the interest to the county auditor the payment of such taxes upon such undivided interests. Thereupon such If the taxes have been paid, the undivided interests shall be are exempt from proceedings to enforce the collection of the same tax against other undivided interests upon which such the tax has not been paid; and. The collection of such tax upon the undivided interests upon which the taxes have not been paid shall must be proceeded with in the same manner collected as to such though the undivided interests as though it were a separate description.

#### 276.08 ORDERS RECEIVED FOR TAXES.

The county treasurer shall receive in payment of taxes orders on the several funds for which taxes may be levied, to the amount of the tax for ~~such the~~ fund, without regard to priority of the numbers of ~~such~~ orders, except when otherwise provided by law, and shall write or stamp across the face of ~~all such the~~ orders the date of their receipt, and the name of the person from whom received.

#### 276.09 SETTLEMENT BETWEEN AUDITOR AND TREASURER.

On the ~~fifth day of March 5,~~ and the ~~20th day of May 20~~ of each year, the county treasurer shall make full settlement with the county auditor of all receipts collected for all purposes, from the date of the last settlement up to and including each day mentioned. The county auditor shall, within 30 days after each settlement, send an abstract of ~~same it~~ to the state auditor in the form prescribed by the state auditor. At each settlement the treasurer shall make complete returns of the receipts on the current tax list, showing the amount collected on account of the several funds included in the list.

Settlement of receipts from May 20 to December 31 of each year ~~shall~~ must be made as provided in section 276.111.

For purposes of this section, "receipts" ~~shall include~~ includes all tax payments received by the county treasurer on or before the settlement date.

#### 276.10 APPORTIONMENT AND DISTRIBUTION OF FUNDS.

On the settlement day in March and May of each year, the county auditor and county treasurer shall distribute all undistributed funds in the treasury; ~~apportioning them.~~ The funds must be apportioned as provided by law, and ~~placing them to the credit of~~ credited to the state, town, city, school district, special district and each county fund. Within 20 days after the distribution is completed, the county auditor shall ~~make a report of it~~ to the state auditor in the form prescribed by the state auditor. The county auditor shall issue a warrant for the payment of money in the county treasury to the credit of the state, town, city, school district, or special districts on application of the persons entitled to receive ~~them~~ the payment. The county auditor may apply the mill rate from the

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year ~~previous to~~ before the year of distribution when apportioning and distributing delinquent tax proceeds, ~~provided that if~~ the composition of the previous year's mill rate between taxing districts is not significantly different than the mill rate that ~~which~~ existed for the year of the delinquency.

#### 276.11 WHEN TREASURER SHALL PAY FUNDS FROM MARCH AND MAY SETTLEMENTS.

As soon as practical after the March and May settlements the county treasurer shall pay ~~over~~ to the state treasurer or the treasurer of any a town, city, school district, or special district, on the warrant of the county auditor, all receipts ~~arising from~~ of taxes levied by ~~and belonging to the state, or to such municipal corporation, or other body, the taxing district~~ and deliver up all orders and other evidences of indebtedness of ~~such municipal corporation or other body~~ the taxing district, taking triplicate receipts ~~therefor for them~~. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its ~~reception~~ receipt to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall ~~preserve~~ keep the receipt in the clerk's office. Upon written request of the ~~state, a municipal corporation or other public body taxing district, to the extent practicable,~~ the county treasurer shall; ~~to the extent practicable,~~ make partial payments of amounts collected periodically in advance of the next settlement and distribution. ~~Accompanying each payment shall be~~ A statement prepared by the county treasurer designating must accompany each payment. It must state the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties ~~thereon on the tax.~~ Upon written request of a taxing district, except school districts, the county treasurer shall pay; ~~upon written request of the state, a municipal corporation or other public body except school districts;~~ at least 70 percent of the estimated collection within 30 days after the March and May settlement dates. Within seven business days after the due date, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district ~~and.~~ The remaining 50 percent of the estimated collections ~~shall must~~ be paid to the treasurer of the school district within the next seven business days. The treasurer shall pay the balance of the amounts collected to the state or to a municipal corporation or other body within 60 days after the March and May settlement dates; ~~provided, however, that,~~ After 45 days interest ~~shall accrue~~ at a an annual rate of eight percent ~~per annum to the credit of and shall accrues and must~~ be paid to the state, ~~municipal corporation or other body taxing district.~~ Interest ~~shall must~~ be ~~payable~~ paid upon appropriation from the general revenue fund of the county ~~and.~~ If not paid, it may be recovered by the state, ~~municipal corporation, or other body taxing district,~~ in a civil action.

#### 276.111 DISTRIBUTIONS AND FINAL YEAR-END SETTLEMENT.

Within seven business days after October 15, the county treasurer shall pay to the school districts 50 percent of the estimated collections arising from taxes

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levied by and belonging to the school district from May 20 to October 20 and. The remaining 50 percent of the estimated tax collections must be paid to the school district within the next seven business days. Within ten business days after November 15, the county treasurer shall pay to the school district 100 percent of the estimated collections arising from taxes levied by and belonging to the school districts from October 20 to November 20.

Within ten business days after November 15, the county treasurer shall pay to each taxing district, except any school district, 100 percent of the estimated collections arising from taxes levied by and belonging to each taxing district from May 20 to November 20.

On or before the fifth day of January 2, the county treasurer shall make full settlement with the county auditor of all receipts collected from the 20th day of May 20 to December 31. After subtracting any tax distributions which that have been made to the taxing districts in October and November, the treasurer shall pay to each of the taxing districts on or before January 25, the balance of the tax amounts collected on behalf of each taxing district. Interest shall accrue at an annual rate of eight percent per annum to the credit of and shall and must be paid to the taxing district if this final settlement amount is not paid by January 25. Interest shall must be payable upon appropriation from the general revenue fund of the county and. If not paid, it may be recovered by the state, municipal corporation, or other body, taxing district in a civil action.

#### 276.12 AUDITOR TO KEEP ACCOUNTS.

The county auditor shall keep accounts with the state, the county, and each of the county funds of such county, and each town, city, and school district, and with the county treasurer, making. The auditor shall make daily entries of the charges and credits to the treasurer, and, immediately after each distribution of taxes, shall credit the collections to the proper funds. Upon application of the treasurer of a town, city, or school district, and upon the filing of a certificate of its clerk that the person applying is the duly elected or appointed treasurer, the auditor shall give a warrant on the county treasurer for the amount due any town, city, or school district upon application of its treasurer, and upon the filing of a certificate of its clerk that the person applying is such treasurer, duly elected or appointed, and charge such the body with the amount of the warrant.

#### 276.13 DISTRIBUTION OF INTEREST, PENALTIES, AND COSTS.

All Penalties accruing upon any tax levied by a special assessment against any particular tract, block, or lot in any city or organized township shall must be apportioned to the general revenue fund of the city or town where the land lies is located. All Other penalties, costs, and interest collected on real estate taxes shall must be apportioned one-half to the county revenue fund and the other half to the school districts of the county in the manner provided for the distribu-

#### 276.14 COLLECTED COSTS TO BE CREDITED TO COUNTY REVENUE FUND INTEREST, PENALTIES, INCORPORATED CITIES.

All Penalties and interest accruing ~~upon~~ on any tax levied by special assessment, or otherwise, for local purposes, on real estate in any incorporated city ~~shall~~ must be apportioned to the general revenue fund of the city where the real estate is situated; ~~and all~~. Other penalties, and interest collected on real estate taxes, ~~shall~~ must be apportioned one-half to the county revenue fund, and the other half to school districts of the county in the manner provided for the distribution of other school funds by section 124.10. ~~All~~ The costs collected ~~shall~~ must be apportioned to the county revenue fund.

## ARTICLE 6

Section 1. Minnesota Statutes 1986, chapter 352, is amended to read:

### 352.01 DEFINITIONS.

Subdivision 1. **TERMS.** Unless the language or context clearly indicates that a different meaning is intended, the ~~following~~ defined in this section, for the purposes of this chapter, ~~shall be given~~ have the meanings ~~subjoined to~~ given them.

Subd. 2. **STATE EMPLOYEE.** "State employee" means any employee or officer in the classified and unclassified service of the state. The term also includes the special classes of persons listed in subdivision ~~2A~~ 2a but excludes the special classes of persons listed in subdivision ~~2B~~ 2b.

Subd. ~~2A~~ 2a. **INCLUDED EMPLOYEES.** ~~The following persons are included in the meaning of "State employee" includes:~~

- (1) employees of the Minnesota historical society;
- (2) employees of the state horticultural society;
- (3) employees of the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, if employed ~~prior to~~ before July 1, 1963;
- (4) employees of the Minnesota crop improvement association;
- (5) employees of the adjutant general who are paid from federal funds and who are not covered by any federal civilian employees retirement system;
- (6) employees of the state universities employed under the university activities program;
- (7) currently contributing employees covered by the system who are temporarily employed by the legislature during a legislative session or any currently contributing employee employed for any special service as defined in clause (8) of subdivision ~~2B~~ 2b;

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(8) employees of the armory building commission;

(9) permanent employees of the legislature and persons employed or designated by the legislature or by a legislative committee or commission or other competent authority to ~~make or~~ conduct a special inquiry, investigation, examination, or installation;

(10) trainees who are employed on a full-time established training program performing the duties of the classified position for which they will be eligible to receive immediate appointment at the completion of the training period;

(11) employees of the Minnesota safety council;

(12) employees of the transit operating division of the metropolitan transit commission and any employees on authorized leave of absence from the transit operating division who are employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division;

(13) employees of the metropolitan council, metropolitan parks and open space commission, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan sports facilities commission or the metropolitan mosquito control commission unless excluded or covered by another public pension fund or plan ~~pursuant to~~ under section 473.141, subdivision 12, or 473.415, subdivision 3; and

(14) judges of the tax court.

Subd. ~~2B~~ 2b. **EXCLUDED EMPLOYEES.** The following persons are excluded from the meaning of "State employee" does not include:

(1) elective state officers;

(2) students employed by the University of Minnesota, the state universities, and community colleges unless approved for coverage by the board of regents, the state university board, or the state board for community colleges, as the case may be;

(3) employees who are eligible ~~to~~ for membership in the state teachers retirement association except employees of the department of education who have elected chosen or may elect choose to be covered by the Minnesota state retirement system instead of the teachers retirement association;

(4) employees of the University of Minnesota who are excluded from coverage by action of the board of regents;

(5) officers and enlisted personnel in the national guard and the naval militia ~~and such as~~ who are assigned to permanent peacetime duty and who ~~pursuant to~~ under federal law are or are required to be members of a federal retirement system;

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- (6) election officers;
- (7) persons engaged in public work for the state but employed by contractors when the performance of the contract is authorized by the legislature or other competent authority;
- (8) officers and employees of the senate and house of representatives or a legislative committee or commission who are temporarily employed;
- (9) ~~all courts and~~ court employees, referees, receivers, jurors, and notaries public, except employees of the appellate courts and referees and adjusters employed by the department of labor and industry;
- (10) patient and inmate help in state charitable, penal, and correctional institutions including the Minnesota veterans home;
- (11) persons employed for professional services where the service is incidental to regular professional duties and whose compensation is paid on a per diem basis;
- (12) employees of the Sibley House Association;
- (13) employees of the Grand Army of the Republic and employees of the ladies of the G.A.R.;
- (14) operators and drivers employed ~~pursuant to~~ under section 16.07, subdivision 4;
- (15) the members of any state board or commission who serve the state intermittently and are paid on a per diem basis; the secretary, secretary-treasurer, and treasurer of those boards if their compensation is \$500 or less per year, or, if they are legally prohibited from serving more than two consecutive terms and their total service ~~therefor~~ is required by law to be less than ten years; and the board of managers of the state agricultural society and its treasurer unless the treasurer is also its ~~full time~~ full-time secretary;
- (16) state troopers;
- (17) temporary employees of the Minnesota state fair employed on or after July 1 for a period not to extend beyond October 15 of ~~the same~~ that year; and persons employed at any time ~~or times~~ by the state fair administration for special events held on the fairgrounds;
- (18) emergency employees in the classified service; except that if an emergency ~~employees who~~ employee, within the same pay period, ~~become~~ becomes a provisional or probationary ~~employees~~ employee on other than a temporary basis, the employee shall be ~~deemed considered~~ a "state ~~employees~~ employee" retroactively to the beginning of the pay period;
- (19) persons described in section 352B.01, subdivision 2, clauses (b) and (c) formerly defined as state police officers;

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(20) ~~all~~ temporary employees in the classified service, ~~all~~ temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one-year period and ~~all~~ seasonal help in the classified service employed by the department of revenue;

(21) trainees paid under budget classification number 41, and other trainee employees, except those listed in subdivision ~~2A~~ 2a, clause (10);

(22) persons whose compensation is paid on a fee basis;

(23) state employees who in any year have credit for 12 months service as teachers in the public schools of the state and as teachers are members of the teachers retirement association or a retirement system in St. Paul, Minneapolis, or Duluth;

(24) employees of the adjutant general employed on an unlimited intermittent or temporary basis in the classified and unclassified service for the support of army and air national guard training facilities;

(25) chaplains and nuns who have taken a vow of poverty as members of a religious order;

(26) labor service employees employed as a laborer 1 on an hourly basis;

(27) examination monitors employed by departments, agencies, commissions, and boards ~~for the purpose of conducting to~~ conduct examinations required by law;

(28) members of appeal tribunals, exclusive of the chair, to which reference is made in section 268.10, subdivision 4;

(29) persons appointed to serve as members of ~~fact finding~~ fact-finding commissions; or adjustment panels, arbitrators, or labor referees under ~~the provisions of~~ chapter 179;

(30) temporary employees employed for limited periods of ~~time~~ under any state or federal program for ~~the purpose of~~ training or rehabilitation including persons employed for limited periods of ~~time~~ from areas of economic distress except skilled and supervisory personnel and persons having civil service status covered by the system;

(31) full-time students employed by the Minnesota historical society ~~who are employed~~ intermittently during part of the year and ~~full time~~ full-time during the summer months;

(32) temporary employees, appointed for not more than six months, of the metropolitan council and of any of its statutory boards, if the board members of ~~which board~~ are appointed by the metropolitan council;

(33) persons employed in positions designated by the department of employee relations as student workers;

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(34) any person who is 65 years of age or older when appointed and who does not have allowable service credit for previous employment, unless the employee gives notice to the director within 60 days ~~following~~ after appointment that coverage is desired;

(35) members of trades employed by the metropolitan waste control commission with trade union pension plan coverage ~~pursuant to~~ under a collective bargaining agreement first employed after June 1, 1977; and

(36) persons employed in subsidized on-the-job training, work experience, or public service employment as enrollees under the federal Comprehensive Employment and Training Act ~~from and~~ after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement system to meet the minimum vesting requirements for a deferred annuity, or the employer agrees in writing on forms prescribed by the director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act, or the person agrees in writing on forms prescribed by the director to make the required employer contribution in addition to the required employer contribution.

Subd. 3. **HEAD OF DEPARTMENT.** "Head of department" means the head of any department, institution, or branch of the state service ~~which~~ that directly pays salaries out of its income or ~~which~~ that prepares, approves, and submits salary abstracts of its employees to the commissioner of finance and state treasurer.

Subd. 4. **ACCUMULATED CONTRIBUTIONS.** "Accumulated contributions" means the total, exclusive of interest, of ~~(a)~~ (1) the sums deducted from the salary of an employee, ~~(b)~~ (2) the amount of payments, including assessments, paid by the employee in lieu of ~~such~~ salary deductions and all other payments made under Laws 1929, chapter 191, ~~or any amendment thereof as amended,~~ and credited to the employee's individual account in the retirement fund.

Subd. 5. **RETIREMENT FUND.** "The retirement fund" includes the aggregate of all "accumulated contributions" of employees, and all other ~~moneys~~ funds paid into the state treasury or received by the director ~~pursuant to the provisions of~~ under Laws 1929, chapter 191, ~~or any amendment thereof as amended,~~ together with all income and profits ~~therefrom~~ from the money and interest ~~thereon~~ on it, including contributions on the part of the federal government, the state, and state departments ~~thereof~~.

Subd. 7. **PRIOR SERVICE.** "Prior service" means the allowable service rendered before ~~the first day of July 1, 1929; and.~~ It includes the service during the first world war of officers, soldiers, sailors, marines, and army nurses who were state employees at the time of enlisting or being drafted into the military service of the United States, and who returned directly to ~~the~~ state service ~~of the~~.

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state upon ~~on~~ returning from the first world war. It also includes any temporary service or service of less than six months rendered ~~prior to~~ before July 1, 1929, upon payment for ~~such~~ service credit as provided in the law in effect at the time of ~~such~~ payment or authorized agreement for ~~such~~ payment.

Subd. 11. **ALLOWABLE SERVICE.** "Allowable service" means:

(1) ~~Any Service rendered~~ by an employee for which on or before July 1, 1957, the employee was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any other manner authorized by Minnesota Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239<sub>2</sub>.

(2) ~~Any Service rendered~~ by an employee for which on or before July 1, 1961, the employee ~~elected~~ chose to obtain credit for service by making payments to the fund ~~pursuant to~~ under Minnesota Statutes 1961, section 352.24<sub>2</sub>.

(3) Except as provided in clauses (9) and (10), ~~any service rendered~~ by an employee after July 1, 1957, for any calendar month in which the employee is paid salary from which deductions are made, deposited<sub>2</sub> and credited in the fund, including deductions made, deposited<sub>2</sub> and credited as provided in section 352.041<sub>2</sub>.

(4) Except as provided in clauses (9) and (10), ~~any service rendered~~ by an employee after July 1, 1957<sub>2</sub> for any calendar month for which payments in lieu of salary deductions are made, deposited<sub>2</sub> and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, section 352.021, subdivision 4.

For purposes of clauses (3) and (4), except as provided in clauses (9) and (10), any salary paid for a fractional part of any calendar month is deemed the compensation for the entire calendar month<sub>2</sub>.

(5) The period of absence from their duties by employees who ~~by reason of are temporarily disabled because of~~ injuries incurred in the performance thereof ~~are temporarily disabled of~~ duties and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund<sub>2</sub>.

(6) The unused ~~portion part~~ of an employee's annual leave allowance for which the employee is paid salary<sub>2</sub>.

(7) Any service covered by a refund repaid as provided in section 352.23 or 352D.05, subdivision 4, ~~but does not include~~ except service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system<sub>2</sub>.

(8) Any service ~~prior to~~ before July 1, 1978<sub>2</sub> by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metro-

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politan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division, which was credited by the metropolitan transit commission-transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous, or allowable service as defined in the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977.

(9) ~~Any~~ Service rendered after July 1, 1983, by an employee who is employed on a part-time basis for less than 50 percent of full time, for which the employee is paid salary from which deductions are made, deposited, and credited in the fund, including deductions made, deposited, and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited, and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either by pay period, monthly, or annually based ~~upon~~ on the relationship that the percentage of salary earned bears to a full-time salary, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time pay period, month, or a full-time year. For periods of part-time service ~~which that~~ is duplicated service credit, ~~the provisions of~~ section 356.30, subdivision 1, clauses (i) and (j), shall govern.

(10) Any service by an employee in the Minnesota demonstration job-sharing program ~~pursuant to~~ under sections 43.56 to 43.62 which is less than 40 hours per week or 2,080 hours per year and for which the employee is paid salary from which deductions are made, deposited and credited in the fund, shall be credited on a fractional basis either weekly or annually based ~~upon~~ on the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full-time week or a full-time year.

The allowable service determined and credited on a fractional basis ~~pursuant to~~ under clauses (9) and (10) shall be used in calculating the amount of benefits payable, but service as determined on a fractional basis shall ~~must~~ not be used in determining the length of service required for eligibility for benefits.

(11) Any period of authorized leave of absence without pay ~~which that~~ does not exceed one year and for which the employee obtained credit by payment to the fund ~~made~~ in lieu of salary deductions. To obtain credit, the employee shall pay an amount equal to the employee and employer contribution rate ~~provided~~ in section 352.04, subdivisions 2 and 3, multiplied by the employee's hourly rate of salary on the date of return from leave of absence and by the days and months of the leave of absence without pay for which the employee ~~desires to obtain~~ wants allowable service credit. The employing department, at its option, may pay the employer amount on behalf of its employees. Payments made under this clause shall include interest at the rate of six percent per ~~annum~~ year from the date of termination of the leave of absence to the date payment is made unless payment is completed within one year of the return from leave of absence.

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Subd. 12. **ACTUARIAL EQUIVALENT.** "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.

Subd. 13. **SALARY.** "Salary" means any compensation paid to any employee including wages, allowances, and fees, but excluding amounts of severance pay.

Subd. 15. **APPROVED ACTUARY.** "Approved actuary" means any actuary who is either a fellow of the society of actuaries or who has at least 15 years of service to major public employee funds, or any firm retaining ~~such~~ an approved actuary on its staff.

Subd. 16. **YEAR OF ALLOWABLE SERVICE.** "Year of allowable service" means any 12 calendar months not necessarily consecutive in which an employee is entitled to allowable service credit. It also means 12 months credit each calendar year for teachers in the state universities and state institutions who may or may not receive compensation in every month in the calendar year.

Subd. 17. **TOTAL AND PERMANENT DISABILITY.** "Total and permanent disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment ~~which can be expected to be of long-continued and indefinite duration.~~ "Long-continued and indefinite duration" means that the disability has been existed or is expected to be continue for a period of at least one year.

Subd. 18. **"ANNUITY" AND "BENEFIT" SYNONYMOUS.** The words "annuity" and "benefit," wherever they appear in this chapter, are synonymous.

Subd. 19. **RETIREMENT.** "Retirement" means the time after a state employee is entitled to an accrued annuity, as defined in subdivision 21, payable ~~pursuant to~~ under an application for annuity filed in the office of the system as provided in section 352.115, subdivision 8 or, in the case of an employee who has received a disability benefit, when that employee ~~attains~~ reaches age 65.

Subd. 20. **RETIRED EMPLOYEE.** "Retired employee" means an employee who has retirement status as defined in subdivision 19.

Subd. 21. **ACCRUED ANNUITIES.** ~~For the purposes of~~ In this chapter and chapters 3A, 352B, 352C<sub>2</sub> and 490, "accrued annuity" means an annuity ~~which that~~ had become payable to a retired employee in the lifetime of the employee. An annuity or benefit authorized as provided in this chapter and chapters 3A, 352B, 352C<sub>2</sub> and 490 becomes payable on the first day of each calendar month for that calendar month and is to be paid on the first day of each calendar month beginning with benefits payable on and after December 1, 1977.

Notwithstanding any provision to the contrary in this chapter and chapters 3A, 352B, 352C<sub>2</sub> and 490, benefit payment authorized as "payable for life" ~~shall~~

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be is payable for the entire month in which death occurs, and the benefit payment for the month of death ~~shall be~~ is payable to the surviving spouse or other beneficiary only if the annuitant dies before negotiating the check.

Subd. 22. **DISABLED EMPLOYEE.** ~~For the purposes of this chapter~~ "Disabled employee" means an employee who is totally and permanently disabled as defined in subdivision 17, and who as a result ~~thereof~~ of the disability is entitled to receive a disability benefit as provided in section 352.113.

Subd. 23. **COVERAGE OR COVERED BY THE SYSTEM.** "Coverage" or "covered by the system" ~~for the purposes of this chapter~~ means that state employees who serve the state of Minnesota and make the required employee contributions to the retirement fund will by reason ~~thereof~~ of these contributions become entitled to either (1) a retirement annuity, or (2) a disability benefit, or (3) a refund of accumulated contributions, ~~all~~ as provided in this chapter.

Subd. 24. **SYSTEM.** "System" means the Minnesota state retirement system.

#### 352.021 MINNESOTA STATE RETIREMENT SYSTEM.

Subdivision 1. **ESTABLISHMENT.** There is ~~hereby~~ established the Minnesota state retirement system; ~~hereinafter called the system;~~ for state employees. The ~~Minnesota state retirement~~ system is a continuation of the state employees retirement association. Any person who was a member of the state employees retirement association on June 30, 1967, ~~shall be~~ is covered by the ~~Minnesota state retirement~~ system and ~~shall be~~ is entitled to all benefits provided by ~~such~~ the system upon fulfilling the age, service, contribution, and other requirements ~~thereof~~ of this chapter.

Subd. 2. **STATE EMPLOYEES COVERED.** Every person who is a state employee, as defined in section 352.01, on July 1, 1967, ~~and every person becoming or becomes~~ a state employee ~~thereafter~~ after that date is covered by the system ~~provided by this chapter.~~ Acceptance of state employment or continuance in state service is deemed consent to have deductions made from salary for deposit to the credit of the account of the state employee in the retirement fund.

Subd. 3. **OPTIONAL EXEMPTIONS.** Any person who is appointed by the governor or lieutenant governor may request exemption from coverage under this chapter if the appointee is not so covered at the date of ~~such~~ appointment. To qualify for this exemption request must be made within 90 days from the date of entering upon the duties of the position to which appointed. After the request, a person requesting exemption ~~shall~~ is not ~~thereafter~~ be entitled to ~~such~~ coverage ~~so long as~~ while employed in the position ~~which~~ that entitled that person to exemption ~~therefrom~~ from coverage.

Subd. 4. **RE-ENTERING SERVICE AFTER ~~REFUNDMENT~~ REFUND.**

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~~Whenever~~ When a former employee who has withdrawn accumulated contributions re-enters employment in a position entitled to coverage under the ~~state retirement system established by this chapter~~, the employee shall be covered ~~thereby by the system~~ on the same basis as a new employee and ~~shall is~~ not be entitled to credit for any former service; ~~nor shall~~. The annuity rights forfeited ~~at the time of when~~ taking a ~~refundment~~ refund can only be restored; ~~except as~~ provided in this chapter.

Subd. 5. **CONTINUING COVERAGE.** Any state employee who has made contributions to the retirement fund for a period of one year and who, ~~thereafter~~ continuing in state service after that year, becomes eligible ~~to for~~ membership in the state teachers retirement association ~~shall have the option of continuing may~~ continue coverage under the system by filing in its office written notice of election therefor to continue. The election to be covered by the system under this subdivision or section 352.01, subdivision ~~2B~~ 2b, clause (3) ~~shall must~~ be made on a form approved by the director within 90 days after appointment to the position. If the option is exercised, the employee ~~shall is~~ not thereafter be entitled to membership in the teachers retirement association while employed by the state in a position ~~which that~~ entitled the employee to make this election.

#### 352.028 COVERAGE TERMINATION.

Coverage of any person under the system ~~shall terminate upon that person's ceasing ends~~ when the person ceases to be a state employee.

#### 352.029 COVERAGE FOR EMPLOYEES OF LABOR ORGANIZATIONS.

Subdivision 1. **QUALIFICATIONS.** A former state employee who is an employee of a labor organization ~~which that~~ is an exclusive bargaining agent representing state employees or a state employee on leave of absence without pay to provide service as an employee or officer of a labor organization that is an exclusive bargaining agent representing state employees, may ~~elect pursuant to choose under~~ subdivision 2 to be covered by the ~~state retirement system established by this chapter with respect to~~ for service with the labor organization unless specifically excluded under section 352.01, subdivision ~~2B~~ 2b.

Subd. 2. **ELECTION.** A person described in subdivision 1 shall be covered by the ~~state retirement system~~ if written election to be covered is delivered to the executive director before December 31, 1985, within 90 days of being employed by the labor organization, or within 90 days of ~~commencing their~~ starting the first leave of absence with an exclusive bargaining agent, whichever is later.

Subd. 3. **CONTRIBUTIONS.** The employee, employer, and additional employer contributions required ~~pursuant to by~~ section 352.04 ~~shall be are~~ the obligation of the employee who ~~elects chooses~~ coverage under this section; ~~provided,~~ However, ~~that~~ the employing labor organization may pay the employer and employer additional contributions. Contributions made by the employee ~~shall must~~ be made by salary deduction. The employing labor organization shall

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remit pay all contributions to the state retirement system pursuant to as required by section 352.04.

Subd. 4. **PURCHASE OF PRIOR SERVICE CREDIT.** Any person who elects membership pursuant to under this section shall be allowed to may make payment for service rendered prior to before December 31, 1985, in a labor organization designated in subdivision 1; provided that if the labor organization makes satisfactory certification of satisfactorily certifies the prior service of the former state employee. Payment shall include all employee, employer, and additional employer contributions at the rates in effect when the service was rendered plus interest at the rate of six percent per annum year from the year of purchase to the date payment is made; provided, however, that. The employing labor organization may pay the employer and employer additional contributions plus interest at the specified rate. Payment shall must be made in one lump sum prior to before December 31, 1985, or prior to before retirement, whichever is earlier; and. No allowable service with respect to such this payment shall be credited to the employee's account until payment is received by the executive director.

Subd. 5. **BOARD MEMBERSHIP EXCLUDED.** Employees of a labor organization who become members of the state retirement system pursuant to under this section shall are not be eligible for election to the board of trustees directors.

### 352.03 **BOARD OF DIRECTORS, COMPOSITION; EXECUTIVE DIRECTOR; DUTIES, POWERS.**

Subdivision 1. **MEMBERSHIP OF BOARD; ELECTION; TERM.** The policy making policy-making function of the system is hereby vested in a board of 11 members, who shall be known as the board of directors hereinafter called the board. This board shall consist of three members appointed by the governor, one of whom shall must be a constitutional officer or appointed state official and two of whom shall must be public members knowledgeable in pension matters, four state employees who shall be elected by state employees covered by the system excluding employees in categories specifically authorized to designate or elect a member by this subdivision, one employee of the transit operating division of the metropolitan transit commission designated by the executive committee of the labor organization which that is the exclusive bargaining agent representing employees of the transit division, one member of the state patrol retirement fund elected by members of that fund at a time and in a manner fixed by the board, one employee covered by the correctional employees plan elected by employees covered by that plan, and one retired employee elected by retired employees at a time and in a manner to be fixed by the board. Two state employee members, whose terms of office shall begin on the first Monday in March next succeeding after their election, shall must be elected biennially. Elected members and the appointed transit operating division member shall hold office for a term of four years, except the retired member whose term shall be is two years, and until their successors are elected or appointed, and have

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qualified. A state employee on leave of absence ~~shall is not be~~ eligible for election or re-election to membership on the board of directors; ~~and~~. The term of any board member who is on leave for more than six months ~~shall~~ automatically ~~terminate upon the expiration ends on expiration~~ of this period.

Subd. 1a. **TERMS; COMPENSATION; REMOVAL; VACANCIES; PUBLIC MEMBERS.** The membership terms, compensation, removal of members, and filling of vacancies for the public members on the board ~~shall be~~ are as provided in section 15.0575.

Subd. 2. **VACANCY.** Any vacancy of a state employee or retired employee in the board caused by death, resignation, or removal of any member so elected ~~shall must~~ be filled by the board for the unexpired portion of the term in which the vacancy occurs. Any vacancy of the employee of the transit operating division member of the board caused by death, resignation, or removal ~~shall must~~ be filled by the governing board of the labor organization ~~which that~~ is the exclusive bargaining agent representing employees of the transit operating division.

Subd. 4. **DUTIES AND POWERS OF BOARD OF DIRECTORS.** ~~It is the duty of The board and it has power to~~ shall:

- (1) elect a chair;
- (2) appoint an executive director;
- (3) establish rules ~~for the administration of the provisions of~~ to administer this chapter and chapters 3A, 352B, 352C, 352D, and 490 and ~~transaction of transact~~ the business of the system, ~~all~~ subject to the limitations of ~~said chapter and the law~~;
- (4) consider and dispose of, or take ~~such any~~ other action ~~as~~ the board of directors deems appropriate concerning denials of applications for annuities or disability benefits under this chapter, and complaints of employees and others pertaining to the retirement of employees and the operation of the system; and
- (5) advise the director on any matters relating to the system and ~~the~~ carrying out of the functions and purposes of ~~said this~~ chapter; ~~which~~. The board's advice shall ~~be controlling; and control~~.

The director and assistant director ~~shall must~~ be in the unclassified service but appointees may be selected from civil service lists if ~~it is desired to do so~~. The salary of the executive director ~~shall must~~ be as provided by section 15A.081, subdivision 1. The salary of the assistant director ~~shall must~~ be set in accordance with section 43A.18, subdivision 3.

Subd. 4a. **ADDITIONAL DUTIES OF THE BOARD.** The board may consider, review, and make recommendations regarding the financial and other needs of retired employees and may disseminate appropriate retirement information to the retired employee.

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Subd. 5. **EXECUTIVE DIRECTOR.** The executive director, ~~hereinafter in this chapter~~ called the director, of the system ~~shall~~ must be appointed by the board on the basis of fitness, experience in the retirement field, and leadership ability. The director ~~shall~~ must have had at least five years' experience on the administrative staff of a major retirement system.

Subd. 6. **DUTIES AND POWERS OF EXECUTIVE DIRECTOR.** The management of the system is vested in the director, who ~~shall be~~ is the executive and administrative head of the system. The director shall ~~act as~~ be advisor to the board on ~~all~~ matters pertaining to the system, and shall also act as the secretary of the board. The director shall:

- (1) Attend ~~all~~ meetings of the board;
- (2) Prepare and recommend to the board rules ~~for the purpose of carrying to carry out the provisions of this chapter~~;
- (3) Establish and maintain an adequate system of records and accounts following recognized accounting principles and controls;
- (4) Designate an assistant director with the approval of the board;
- (5) Appoint ~~such~~ any employees, both permanent and temporary, as that are necessary to carry out the provisions of ~~said~~ this chapter;
- (6) Organize the work of the system as the director deems necessary to fulfill the functions of the system, and define the duties of its employees and delegate to them any powers or duties, subject to the control of the director and under ~~such~~ conditions as the director may prescribe. Appointments to exercise delegated power ~~shall~~ must be by written order filed with the secretary of state;
- (7) With the advice and consent of the board, contract for actuarial services, professional management services, and consulting services as ~~may be~~ necessary and fix the compensation ~~therefor~~ for these services. The contracts ~~shall are~~ are not be subject to the competitive bidding procedure ~~prescribed by under~~ chapter 16. Professional management services may not be contracted for more often than once in ~~every~~ six years. Copies of ~~all~~ professional management survey reports ~~shall~~ must be sent directly to the legislature and the legislative auditor at the ~~same~~ time reports are furnished the board. Only management firms experienced in conducting management surveys of federal, state, or local public retirement systems ~~shall be~~ are qualified to contract with the director ~~hereunder~~;
- (8) With the advice and consent of the board provide ~~inservice~~ in-service training for ~~all~~ employees of the system;
- (9) Make ~~refundments~~ refunds of accumulated contributions to former state employees and to the designated beneficiary, surviving spouse, legal representative, or next of kin of deceased state employees or deceased former state employees, ~~all~~ as provided in this chapter;

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(10) Determine the amount of the annuities and disability benefits of employees covered by the system and authorize payment ~~thereof~~ beginning as of the dates the annuities and benefits begin to accrue, ~~all~~ in accordance with the provisions of ~~said~~ this chapter;

(11) Pay annuities, ~~refundments~~ refunds, survivor benefits, salaries, and ~~all~~ necessary operating expenses of the system;

(12) Certify funds available for investment to the state board of investment;

(13) With the advice and approval of the board request the state board of investment to sell securities when the director determines that funds are needed for ~~the purposes of~~ the system;

(14) ~~Prepare and submit~~ Report annually to the board and the legislature ~~an annual report covering on~~ the operation of the system, as required by sections 356.215 to 356.23;

(15) Prepare and submit biennial and quarterly budgets to the board and with the approval of the board submit the budgets to the department of administration; and

(16) With the approval of the board, perform ~~such~~ other duties as ~~may be required for the administration of~~ required to administer the retirement and other provisions of this chapter and ~~for the transaction of~~ to do its business.

Subd. 7. **DIRECTORS' FIDUCIARY OBLIGATION.** ~~It is the duty of~~ The board and the director ~~to~~ shall administer the law faithfully without prejudice and consistent with the expressed intent of the legislature. They shall act in their respective capacities with a fiduciary obligation to the state of Minnesota which created the fund, the taxpayers ~~which~~ who aid in financing it, and the state employees who are its beneficiaries.

Subd. 8. **MEDICAL ADVISOR.** The state commissioner of health or ~~such~~ other licensed physician on the staff of the commissioner as the commissioner may designate shall be the medical advisor of the director.

Subd. 9. **DUTIES OF THE MEDICAL ADVISOR.** The medical advisor shall designate licensed physicians to examine applicants for disability benefits. The medical advisor shall pass upon ~~all~~ medical reports based upon ~~such~~ examinations required to determine whether a state employee is totally and permanently disabled as defined in section 352.01, subdivision 17, shall investigate ~~all~~ health and medical statements and certificates by or on behalf of a state employee in connection with a disability benefit, and shall report in writing to the director conclusions and recommendations on ~~all~~ matters referred for advice.

Subd. 10. **POWER TO DETERMINE EMPLOYEE'S STATUS.** Except as otherwise specifically provided in this chapter, the final power to determine the status of any individual in the employ of the state for the purposes of this chapter is vested in the board and its decision is final.

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Subd. 11. **LEGAL ADVISER, ATTORNEY GENERAL.** The attorney general shall be the legal adviser of the board and of the director. The board may sue or be sued in the name of the board of directors of the ~~Minnesota state retirement system and~~. In all actions brought by it or against it, the board shall be represented by the attorney general ~~provided that~~. Venue of all such actions shall be in the Ramsey county district court.

Subd. 12. **DEPARTMENT OF EMPLOYEE RELATIONS, DUTIES.** Upon request of the director, the department of employee relations shall furnish ~~such~~ information ~~relative to~~ about the status of state employees as ~~may~~ be required by the director or the board in the performance of their duties.

Subd. 13. **DEPARTMENT OF LABOR AND INDUSTRY, DUTIES.** The department of labor and industry shall ~~furnish~~ give the director ~~with~~ a copy of each abstract submitted to the commissioner of finance and to be charged to the state compensation revolving fund ~~which shall be construed as~~. The copy is notice to the director that the employees listed ~~thereon on it~~ have sustained injury arising out of and in the course of employment by the state of Minnesota and are entitled to credit for service on the records of the system ~~during the time while they receive~~ compensation ~~is received~~ for temporary disability resulting from ~~such the~~ injury; ~~but shall~~. The copy must not be used for any other purpose.

Subd. 14. **DEPARTMENTAL INFORMATION.** Under the direction of the director the head of each department shall ~~furnish such~~ give information and keep ~~such~~ records as the director or the board ~~may require~~ needs for the discharge of their duties.

Subd. 15. **CALENDAR YEAR BASIS OPTIONAL.** For all purposes except quarterly and biennial budgets the system may operate on a calendar rather than a fiscal year basis.

Subd. 16. **DATA PROCESSING SERVICES.** Notwithstanding chapter 16, or any law to the contrary, the executive director of the ~~Minnesota state retirement system~~ may use the services of the department of administration, information services division, for electronic data processing and related services or may contract for all or a ~~portion part~~ part of ~~such the~~ services.

#### 352.04 STATE EMPLOYEES RETIREMENT FUND, CONTRIBUTIONS BY EMPLOYEE AND EMPLOYER.

Subdivision 1. **FUND CREATED.** (†) (a) There is created a special fund to be known as the state employees retirement fund. In that fund there shall be deposited employees contributions, employers contributions, and other amounts authorized by law.

(‡) (b) Effective July 1, 1969, the Minnesota state retirement system shall participate in the Minnesota postretirement investment fund. In that fund there shall be deposited the amounts provided in section 352.119.

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Subd. 2. **EMPLOYEE CONTRIBUTIONS.** The employee contribution to the fund ~~shall~~ must be ~~an amount~~ equal to 3.73 percent of salary, beginning with the first full pay period after June 30, 1984. These contributions ~~shall~~ must be made by deduction from salary ~~in the manner~~ as provided in subdivision 4.

Subd. 3. **EMPLOYER CONTRIBUTIONS.** The employer contribution to the fund ~~shall~~ must be ~~an amount~~ equal to 3.90 percent of salary beginning with the first full pay period after June 30, 1984.

Subd. 4. **PAYROLL DEDUCTIONS.** The head of each department shall ~~cause~~ have employee contributions ~~to be~~ deducted from the salary of each employee covered by the system on every payroll abstract and shall approve one voucher payable to the state treasurer for the aggregate amount ~~so~~ deducted on the payroll abstract. Deductions from salaries of employees paid direct by any department, institution, or agency of the state ~~shall~~ must be made by the officer or employee authorized by law to pay ~~such~~ the salaries. The head of any department or agency having authority to appoint any employee who receives fees as compensation or who receives compensation on federal payrolls shall collect as the required employee contribution the applicable amounts required in subdivision 2. ~~All such~~ Deductions from salary and amounts collected ~~shall~~ must be remitted to the director with a statement showing the amount of earnings or fees, and in the case of fees, the number of transactions, and the amount of each of ~~such~~ the deductions and collections and the names of the employees on whose account ~~the same~~ they have been made.

Subd. 5. **PAYMENT OF EMPLOYER CONTRIBUTIONS.** The head of each department or agency shall ~~cause~~ have employer contributions ~~to be~~ made to the fund on ~~each a~~ payroll abstract at the time ~~each an~~ employee is paid salary in the amounts required by subdivision 3. These contributions ~~shall~~ must be charged as administrative costs. Each department shall pay these amounts from ~~such~~ accounts and funds from which ~~each the~~ department or agency receives its revenue, including appropriations from the general fund and from any other fund; ~~now or hereafter existing~~, for the payment of salaries and in the same proportion as it pays ~~therefrom~~ the amounts of ~~such~~ salaries.

Subd. 6. **QUASISTATE AGENCIES; EMPLOYER CONTRIBUTIONS.** For those of their employees who are covered by the system, the state horticultural society, the Disabled American Veterans, Department of Minnesota, Veterans of Foreign Wars, Department of Minnesota, the Minnesota crop improvement association, the Minnesota historical society, the armory building commission, the Minnesota safety council, the Metropolitan council and any of its statutory boards, and any other agency employing employees covered by this system, respectively, shall also pay into the retirement fund the amount required by subdivision 3.

Subd. 8. **DEPARTMENT REQUIRED TO PAY OMITTED SALARY DEDUCTIONS.** (a) If ~~any a~~ department fails to take deductions past due for a period of 60 days or less from an employee's salary as provided in this section, those deductions ~~shall~~ must be taken on ~~subsequent~~ later payroll abstracts.

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(b) If ~~any~~ a department fails to take deductions past due for a period in excess of 60 days from an employee's salary as provided in this section, the department, and not the employee, shall pay the employee and employer contributions and an amount equivalent to six percent of the total amount due in lieu of interest.

(c) If ~~any~~ a department fails to take deductions past due for a period of 60 days or less and the employee is no longer in state service so that the required deductions cannot be taken from the salary of the employee, the department shall nevertheless pay the required employer contributions. If any department fails to take deductions past due for a period in excess of 60 days and the employee is no longer in state service, the omitted contributions shall be recovered ~~pursuant to clause~~ under paragraph (b).

(d) If an employee from whose salary required deductions were past due for a period of 60 days or less leaves state service ~~prior to before~~ the payment of the omitted deductions and subsequently returns to state service, the unpaid amount thereof ~~shall be is~~ considered the equivalent of a refund; ~~and~~. The employee ~~shall accrue~~ accrues no right by reason thereof ~~of the unpaid amount~~, except that the employee may pay the amount ~~thereof of omitted deductions~~ as provided in section 352.23.

Subd. 9. **ERRONEOUS DEDUCTIONS, CANCELED WARRANTS.** (4)

~~Any~~ (a) Deductions taken from the salary of an employee for the retirement fund in error ~~shall must~~, upon discovery and verification by the department making the deduction, be refunded to the employee.

(2) ~~In the event a salary warrant or check from which~~ (b) ~~If~~ a deduction for the retirement fund ~~was is~~ taken ~~has been~~ from a salary warrant or check, and the check is canceled or the amount of the warrant or check returned to the funds of the department making the payment, ~~a refundment of the sum so~~ deducted, or ~~any portion the part of it as is~~ required to adjust the deductions, ~~shall be made~~ must be refunded to the department or institution ~~provided application if the department applies for it is made the refund~~ on a form furnished by the director; ~~and~~. The department's payments ~~shall must~~ likewise be refunded to the department.

Subd. 11. **GIFTS AND BEQUESTS.** The director ~~is hereby authorized and empowered to may~~ credit to the retirement fund any ~~moneys~~ money received in the form of donations, gifts, appropriations, bequests, or otherwise, or derived ~~therefrom from it~~.

Subd. 12. **FUND DISBURSEMENT RESTRICTED.** The state employees retirement fund and the participation in the Minnesota postretirement investment fund ~~shall must~~ be disbursed only for the purposes ~~herein~~ provided by law. The expenses of the system and any benefits ~~herein~~ provided by law, other than benefits payable from the Minnesota postretirement investment fund, ~~shall must~~ be paid from the state employees retirement fund. The retirement allowances, retirement annuities, and disability benefits, as well as ~~refundment~~ refunds of

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any sum remaining to the credit of a deceased retired employee or a disabled employee ~~shall~~ must be paid only from the state employees retirement fund after ~~such~~ the needs have been certified and the amounts withdrawn from the participation in the Minnesota postretirement investment fund under ~~the provisions of~~ section 11A.18. The amounts necessary to make the payments from the state employees retirement fund and the participation in the Minnesota postretirement investment fund are ~~hereby~~ annually appropriated from ~~said~~ these funds for ~~said~~ those purposes.

**352.041 LEAVE OF ABSENCE FOR EMPLOYMENT BY POLITICAL SUBDIVISION.**

Subdivision 1. **ALLOWABLE SERVICE CREDIT.** Any employee covered by the system who is given a leave of absence for employment by a political subdivision of the state shall continue to pay into the state employees retirement fund for the period of ~~such~~ leave; ~~and~~. Upon ~~such~~ payment shall the employee must be given allowable service credit as a state employee on the records of the system ~~the same~~ as though the employee had received salary from the state ~~therefor~~ during the leave. ~~Such~~ Payments into the retirement fund shall be at the rate required in section 352.04, subdivision 2, and ~~shall~~ must be based upon the salary received from the political subdivision subject to the maximum amount, if any.

Subd. 2. **EMPLOYEE CONTRIBUTIONS, PROCEDURE.** The officer or employee authorized by law to pay salaries to employees of the political subdivision employing ~~such~~ a state employee shall ~~cause~~ have employee contributions ~~to be~~ deducted from the salary of each employee who is on leave of absence from state service ~~as aforesaid~~ on each payroll abstract and shall pay ~~such~~ the sum to the director each pay period.

Subd. 3. **EMPLOYER CONTRIBUTIONS, PROCEDURE.** The officer or employee authorized by law to pay salaries to employees of the political subdivision employing ~~such~~ a state employee covered by the system shall also ~~cause~~ have employer contributions ~~to be~~ made to the state employees retirement fund on each payroll abstract in the amount required by section 352.04, subdivision 3. These contributions are to be charged as an administrative cost.

Subd. 5. **EMPLOYER CONTRIBUTIONS, LEAVES OF ABSENCE; TAX LEVIES.** Every political subdivision employing a state employee covered by the system on leave of absence from state service for employment by a political subdivision of the state shall pay into the state employees retirement fund the amount of the employer contribution required by law for state employees covered by the system. ~~Such~~ Employing political subdivisions, except school districts, may levy ~~such~~ taxes ~~as may~~ be necessary for the payment of employer contributions without limitation as to rate or amount; ~~and~~. The levy of ~~such~~ the taxes ~~shall not cause~~ does not reduce the amount of other taxes to be levied by political subdivisions, except school districts, which are subject to any ~~such~~ limitation; ~~to be reduced in any amount whatsoever~~.

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**352.05 STATE TREASURER TO BE TREASURER OF SYSTEM.**

The state treasurer ~~shall be~~ is ex officio treasurer of the retirement funds of the system ~~and~~. The general bond to the state shall cover all liability for actions as treasurer of these funds. ~~All moneys~~ Funds of the system received by the treasurer ~~shall~~ must be set aside in the state treasury to the credit of the proper fund. The treasurer shall deliver to the director ~~each month~~ copies of all payroll abstracts of the state together with the commissioner of finance's warrants covering the deductions made on these payroll abstracts for the retirement fund; ~~whereupon~~. The director shall ~~cause to be~~ have a list made; ~~in quadruplicate~~; ~~a list~~ of the commissioner of finance's warrants ~~and~~. These warrants ~~shall~~ must then be deposited with the state treasurer to be credited to the retirement fund. The treasurer shall pay out of this fund only on warrants issued by the commissioner of finance, upon abstracts signed by the director, or by the finance officer designated by the director during the disability or the absence of the director from the city of St. Paul, Minnesota. Abstracts for investments may be signed by the ~~secretary~~ executive director of the state board of investment.

**352.061 INVESTMENT BOARD TO INVEST FUNDS.**

The director shall, from time to time, certify to the state board of investment ~~such any~~ portions of the state employees retirement fund ~~as that~~ in the judgment of the director ~~may be~~ are not be required for immediate use. Assets from the state employees retirement fund ~~shall~~ must be transferred to the Minnesota postretirement investment fund as provided in section 11A.18. The state board of investment shall ~~thereupon~~ invest and reinvest sums so transferred, or certified, in ~~such securities as that~~ are duly authorized legal investments ~~for such purposes~~ under section 11A.24.

**352.113 PERMANENT DISABILITY BENEFITS.**

Subdivision 1. **AGE AND SERVICE REQUIREMENTS.** Any employee covered by the system who is less than 65 years ~~of age~~ old who becomes totally and permanently disabled after ten or more years of allowable service and any employee who is at least 50 years ~~of age~~ old but less than 65 years ~~of age~~ old who becomes totally and permanently disabled after five or more years of allowable service ~~shall be~~ is entitled to a disability benefit in an amount provided in subdivision 3. If ~~such the~~ disabled employee's state service has terminated at any time, ~~the employee~~ must have at least five years of allowable service ~~must have been rendered~~ after last becoming a state employee covered by the system.

Subd. 2. **APPLICATION; ACCRUAL OF BENEFITS.** An employee making claim for a total and permanent disability benefit shall file a written application ~~therefor for~~ benefits in the office of the system. The application must be in a form and manner prescribed by the executive director. The benefit shall begin to accrue the day following the ~~commencement~~ start of disability or the day following the last day paid, whichever is later, ~~but in no event not~~ not earlier than 60 days ~~prior to~~ before the date the application is filed with the director.

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

Subd. 3. **COMPUTATION OF BENEFITS.** The total and permanent disability benefit shall must be computed in the manner provided in section 352.115. The disability benefit shall be the normal annuity without reduction for each month the employee is under age 65 at the time of becoming disabled. A disabled employee may ~~elect~~ choose to receive the normal disability benefit or an optional annuity as provided in section 352.116, subdivision 3. ~~The election of an optional annuity shall~~ This choice must be made ~~prior to~~ before the ~~commencement start~~ of payment of the disability benefit and ~~shall be~~ is effective the date on which the disability begins to accrue as provided in subdivision 2.

Subd. 4. **MEDICAL EXAMINATIONS; AUTHORIZATION FOR PAYMENT OF BENEFIT.** An applicant shall provide medical evidence to support an application for total and permanent disability. The director shall have the employee examined by at least one additional licensed physician designated by the medical advisor. The physicians shall make written reports to the director concerning the employee's disability including medical opinions as to whether the employee is permanently and totally disabled within the meaning of section 352.01, subdivision 17. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability ~~which~~ that will prevent further service to the employer and as a consequence the employee is not entitled to compensation from the employer. ~~If upon the consideration of~~ The medical advisor shall consider the reports of the physicians and ~~such~~ any other evidence as ~~may have been~~ supplied by the employee or ~~others interested therein;~~ other interested parties. If the medical advisor finds the employee totally and permanently disabled, the advisor shall make appropriate recommendation to the director in writing together with the date from which the employee has been totally disabled; ~~and.~~ The director shall ~~thereupon~~ then determine the propriety of authorizing payment of a disability benefit as provided in this section. The employee must be on approved leave of absence from the employer to be eligible to ~~make application~~ apply for a total and permanent disability benefit, but the fact that an employee is placed on leave of absence without compensation because of disability ~~shall~~ does not bar that employee from receiving a disability benefit. Unless payment of a disability benefit has terminated because the employee is no longer totally disabled, or because the employee has reached age 65 as provided in this section, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the lifetime of the employee unless there is a spouse surviving; in that event the surviving spouse ~~shall be~~ is entitled to the disability benefit for the calendar month in which the disabled employee died.

Subd. 6. **REGULAR MEDICAL EXAMINATIONS.** At least once each year during the first five years following the allowance of a disability benefit to any employee, and at least once in every three-year period thereafter, the director may require any disabled employee to undergo a medical examination ~~to be.~~ The examination must be made at the place of residence of ~~such~~ the employee, or at any place mutually agreed upon, by a physician or physicians designated by the medical advisor and engaged by the director. If any examination indicates to the medical advisor that the employee is no longer permanently and totally

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disabled, or is engaged in or ~~is able to~~ can engage in a gainful occupation, payments of the disability benefit by the fund ~~shall~~ must be discontinued. The payments shall discontinue as soon as the employee is reinstated to the payroll following sick leave, but in no case shall payment be made for more than 60 days after the medical advisor finds that ~~such~~ the employee is no longer permanently and totally disabled.

Subd. 7. **PARTIAL RE-EMPLOYMENT.** ~~Should~~ If the disabled employee ~~resume~~ resumes a gainful occupation from which earnings are less than the employee's salary at the date of disability or the salary currently paid for similar positions, the director shall continue the disability benefit in an amount which when added to ~~such~~ earnings does not exceed the salary at the date of disability or the salary currently paid for similar positions, whichever is lower, provided the disability benefit in ~~such~~ this case does not exceed the disability benefit originally allowed. ~~No~~ Deductions for the retirement fund ~~shall~~ must not be taken from the salary of a disabled employee who is receiving a disability benefit as provided in this subdivision.

Subd. 8. **REFUSAL OF EXAMINATION.** ~~Should any such~~ If a disabled employee ~~refuse~~ refuses to submit to a medical examination as ~~herein provided~~ required, payments by the fund ~~shall~~ must be discontinued and the director shall revoke all rights of the employee in any disability benefit ~~shall be revoked by the director.~~

Subd. 9. **RETURN TO STATE SERVICE.** Any employee receiving a disability benefit who is restored to active state service except employees receiving benefits as provided in subdivision 7, shall have deductions taken for the retirement fund and upon ~~subsequent~~ retirement have the payable retirement annuity based upon all allowable service including that upon which the disability benefits were based. No employee ~~shall be~~ is entitled to receive disability benefits and a retirement annuity at the same time.

Subd. 10. **EMPLOYEE AGAIN DISABLED AFTER RESUMING EMPLOYMENT.** If a disabled employee resumes gainful employment with the state and is not entitled to continued payment of a disability benefit as provided in subdivision 7, the right to a disability benefit ~~shall terminate~~ ends when the employee has been employed for one year thereafter. ~~Should such~~ If the employee again ~~become~~ becomes totally and permanently disabled before reaching age 65, application for a disability benefit may again be made. ~~In the event~~ If the employee is entitled to a disability benefit it ~~shall~~ must be computed as provided in subdivision 9.

Subd. 11. **RECOMPUTATION OF BENEFIT.** If an employee who has resumed employment as provided in subdivision 10 is re-employed for more than three months, but ~~is unable to~~ cannot continue in ~~such~~ re-employment for one year, the disability benefit ~~shall~~ must be recomputed allowing additional service credit for the period of re-employment; ~~provided that~~. If the period of re-employment does not exceed three months, the deductions taken from salary after resuming employment ~~shall~~ must be returned to the employee; ~~who shall~~

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~~not be.~~ The employee is not entitled to service credit for the period covered by the returned deductions.

Subd. 12. **RETIREMENT STATUS AT AGE 65.** The disability benefit paid to a disabled employee ~~hereunder shall terminate~~ under this section ends when the employee reaches age 65. If the disabled employee is still totally and permanently disabled when the employee reaches age 65, the employee shall be ~~deemed considered~~ to be a retired employee ~~and,~~ If the employee had ~~elected~~ chosen an optional annuity ~~pursuant to~~ under subdivision 3, ~~the employee shall receive an annuity in accordance with the terms of the optional annuity previously elected, or, chosen.~~ the employee shall receive either a normal retirement annuity equal in amount to the disability benefit paid before the employee reached age 65 or an optional annuity as provided in section 352.116, subdivision 3. ~~Election~~ The choice of an optional annuity ~~shall must~~ be made ~~prior to~~ before reaching age 65. If an optional annuity is ~~elected chosen,~~ the election shall be choice is effective on the date ~~on~~ which the employee ~~attains the age of becomes~~ becomes 65 years ~~old~~ and the optional annuity shall begin to accrue the first of the month following the month in which the employee attains age 65.

#### 352.115 RETIREMENT ANNUITY.

Subdivision 1. **AGE AND SERVICE REQUIREMENTS.** After separation from state service, any employee ~~(a) (1)~~ who has attained the age of at least 55 years and who is entitled to credit for ~~not less than~~ at least ten years allowable service, or ~~(b) (2)~~ who has received credit for ~~not less than~~ at least 30 years allowable service regardless of age, is entitled upon application to a retirement annuity.

Subd. 2. **AVERAGE SALARY.** The retirement annuity hereunder payable at age 65 or thereafter ~~shall must~~ be computed in accordance with the applicable provisions of the formula stated in subdivision 3 ~~hereof,~~ on the basis of the employee's average salary for the period of allowable service. ~~Such~~ This retirement annuity is known as the "normal" retirement annuity.

For each year of allowable service, "average salary" of an employee ~~for the purpose of in~~ determining a retirement annuity means the average of the highest five successive years of salary upon which the employee has made contributions to the retirement fund by payroll deductions.

"Average salary" ~~shall does~~ not include the payment of accrued unused annual leave or overtime paid at time of final separation from state service if paid in a lump sum nor ~~shall does~~ it include the reduced salary, if any, paid during the period the employee is entitled to workers' compensation benefit payments ~~from the workers' compensation court of appeals~~ for temporary disability.

Subd. 3. **RETIREMENT ANNUITY FORMULA.** The employee's average

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salary, as defined in subdivision 2, multiplied by ± one percent per year of allowable service for the first ten years and 1.5 percent for each subsequent later year of allowable service and pro rata for completed months less than a full year shall determine the amount of the retirement annuity to which the employee qualifying therefor is entitled.

Subd. 7. **APPLICATION FOR ANNUITY.** Application for annuity may be made by the employee, or someone acting in behalf of the employee, upon proof of authority satisfactory to the director.

Subd. 8. **ACCRUAL OF ANNUITY.** State employees shall ~~make applica-~~ tion apply for an annuity ~~but such.~~ The application shall must not be made more than 60 days ~~prior to~~ before the time the employee is eligible to retire by reason of both age and service requirements. If the director determines an applicant for annuity has fulfilled ~~all the legal~~ requirements of the law to entitle the applicant to for an annuity, the director shall authorize the annuity payment thereof in accordance with the provisions of this chapter and payment shall must be made ~~pursuant to this authorization as authorized.~~ An annuity shall begin to accrue no earlier than 60 days ~~prior to~~ before the date the application is filed with the director, but ~~in no event prior to~~ not before the day following the termination of state service or ~~prior to~~ before the day the employee is eligible to retire by reason of both age and service requirements. The retirement annuity shall cease with the last payment which had accrued during the lifetime of the retired employee unless an optional annuity provided in section 352.116, subdivision 3, had been selected and had become payable. The joint and last survivor annuity shall cease with the last payment received by the survivor during the lifetime of the survivor. If a retired employee had not selected an optional annuity, or a survivor annuity is not payable under the option, and a spouse survives, ~~such the spouse shall be~~ is entitled only to the annuity for the calendar month in which the retired employee died. If an optional annuity is payable after the death of the retired employee, the survivor ~~shall be~~ is entitled to the annuity for the calendar month in which the retired employee died.

Subd. 9. **ANNUITIES PAYABLE MONTHLY.** All annuities, and disability benefits authorized ~~under the provisions of~~ by this chapter shall, must be paid in equal monthly installments and shall must not be increased, decreased, or revoked except as provided ~~herein~~ in this chapter.

Subd. 10. **RE-EMPLOYMENT OF ANNUITANT.** ~~Should~~ If any retired employee again ~~become~~ becomes entitled to receive salary or wages from the state, or any employer who employs state employees as that term is defined in section 352.01, subdivision 2, other than salary or wages received as a temporary employee of the legislature during a legislative session, the annuity or retirement allowance shall cease when the retired employee has earned an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program as set by the secretary of health and human services ~~pursuant to the provisions of 42 U.S.C., Section 403~~ under United States

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Code, title 42, section 403, in any calendar year. ~~In the event that~~ If the retired employee has not yet reached the minimum age for the receipt of social security benefits, the maximum earnings for the retired employee shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of social security benefits. The annuity ~~shall~~ must be resumed when state service ~~terminates ends~~, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of ~~such that~~ calendar year, and payment ~~shall~~ must again ~~terminate end~~ when the retired employee has earned the applicable re-employment earnings maximum specified in this subdivision. No payroll deductions for the retirement fund shall be made from the earnings of a re-employed retired employee. If the retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance ~~shall~~ must be resumed during the period of sick leave. No change shall be made in the monthly amount of an annuity or retirement allowance because of the re-employment of an annuitant.

Subd. 11. **ACCRUED ANNUITY AT DEATH.** Any annuity ~~which had~~ accrued ~~prior to~~ before the death of a retired employee, and any disability benefit ~~which had~~ accrued ~~prior to~~ before the death of a disabled employee shall be paid to the beneficiary whom the retired employee or the disabled employee had last designated. If ~~(a)~~ (1) no beneficiary has been so designated, or ~~(b)~~ (2) the designated beneficiary ~~should die~~ dies before making claim for payment of ~~such an~~ annuity or benefit, payment ~~shall~~ must be made to the surviving spouse, or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the legal representative of ~~such the~~ retired employee or disabled employee. If ~~such the~~ designated beneficiary, surviving spouse, or legal representative entitled ~~thereto to the~~ annuity does not apply for payment within five years from the date of death of the retired employee or disabled employee, the annuity or disability benefit which had accrued at the time of death ~~shall~~ must be credited to and become a part of the retirement fund.

Subd. 12. **DEATH, RETURN OF WARRANTS.** If at the time of death a retired employee, a disabled employee, or a survivor has in possession commissioner of finance's warrants covering a retirement annuity, disability benefit or survivor benefit from the retirement fund, in the absence of probate proceedings, and upon the return of ~~such the~~ warrants for cancellation, payment of ~~such the~~ accrued annuity or benefit, shall be ~~paid~~ made as provided in subdivision 11, or 352.12, subdivision 4. Payments made under ~~the provisions of~~ this subdivision shall be a bar to recovery by any other person or persons.

### 352.116 ANNUITIES UPON RETIREMENT.

Subdivision 1. **REDUCED ANNUITY BEFORE AGE 65.** Any employee who retires ~~prior to~~ before age 65 shall be paid the normal retirement annuity provided in section 352.115, subdivisions 2 and 3, reduced so that the reduced annuity ~~shall be~~ is the actuarial equivalent of the annuity ~~which that~~ would be payable to the employee if the employee deferred receipt of the annuity from the

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day the annuity begins to accrue to age 65; ~~provided however that~~. If an employee is entitled to credit for ~~not less than~~ at least 30 years allowable service, the retirement annuity ~~shall~~ must be reduced so that the reduced annuity ~~shall~~ be ~~is~~ the actuarial equivalent of the annuity ~~which that~~ would be payable to the employee if the employee deferred receipt of the annuity from the day the annuity begins to accrue to age 62.

Subd. 2. **NORMAL ANNUITY AT AGE 65.** Any employee who retires after age 65 shall be paid the annuity provided in section 352.115.

Subd. 3. **OPTIONAL ANNUITIES.** The board shall establish an optional retirement annuity ~~which shall take in~~ the form of a joint and survivor annuity. The board may also ~~in its discretion~~ establish an optional annuity ~~which shall take in~~ the form of an annuity payable for a period certain and for life thereafter. The optional forms ~~shall~~ must be actuarially equivalent to the normal forms provided in sections 352.115 and 352.116, whichever applies. In establishing these optional forms, the board shall obtain the written recommendation of an approved actuary as defined in section 352.01, subdivision 15; ~~and~~. These recommendations shall be a part of the permanent records of the board.

#### 352.119 PARTICIPATION IN ~~MINNESOTA~~ POSTRETIREMENT INVESTMENT FUND.

Subdivision 1. **ADJUSTABLE FIXED BENEFIT ANNUITY.** Adjustable fixed benefit annuity means the payments made from the participation in the fund to an annuitant after retirement in accordance with ~~the provisions~~ of this section. It also means that the payments made to the persons receiving benefits ~~shall~~ must never be an amount less than the amount originally determined on the date of retirement or on July 1, 1969, whichever is later, but not including the supplemental benefit provided for in section 352.73.

Subd. 2. **VALUATION OF ASSETS; ADJUSTMENT OF BENEFITS. (+)**  
(a) Effective July 1, 1969, for those employees ~~commencing beginning~~ beginning to receive benefits ~~pursuant to under~~ this chapter, ~~and acts amendatory thereof~~, the required reserves as determined in accordance with the interest assumption then in effect and appropriate mortality table based on experience of the fund as recommended by the system's actuary ~~shall~~ must be transferred to the Minnesota postretirement investment fund as of the ~~date~~ end of the month in which benefits begin to accrue.

(2) (b) Annuity payments ~~shall~~ must be adjusted in accordance with the ~~provisions~~ of section 11A.18.

Subd. 3. **INCREASES MADE AUTOMATICALLY.** Notwithstanding section 356.18, increases in benefit payments ~~pursuant to under~~ this section will be made automatically unless the intended recipient files written notice with the ~~Minnesota state retirement~~ system requesting that the increase ~~shall~~ not be made.

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

**352.12 REFUND AFTER DEATH OF EMPLOYEE OR FORMER EMPLOYEE.**

Subdivision 1. DEATH BEFORE TERMINATION OF SERVICE. If an employee dies before state service has terminated and neither a survivor annuity nor a reversionary annuity is payable, or if a former employee who has sufficient service credit to be entitled to an annuity dies before the benefit has become payable, the director shall make a refund to the last designated beneficiary or, if there is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to the accumulated employee contributions plus interest thereon to the date of death at the rate of five percent per annum compounded annually. In the event upon the death of an employee dies who has received a refundment which refund that was subsequently later repaid in full, interest shall must be paid on such the repaid refundment returned only from the date of repayment. If the repayment was made in installments, interest shall must be paid only from the date installment payments began. The designated beneficiary, surviving spouse, or representative of the estate of an employee who had received a disability benefit shall is not be entitled to interest upon any balance remaining to the decedent's credit in the fund at the time of death.

Subd. 2. SURVIVING SPOUSE BENEFIT. If an employee or former employee who has attained the age of 50 years old and has credit for not less than at least ten years allowable service or who has credit for not less than at least 30 years of allowable service, regardless of age attained, dies before an annuity or disability benefit has become payable, notwithstanding any designation of beneficiary to the contrary, the surviving spouse of the employee may elect to receive, in lieu of the refund with interest provided in subdivision 1, an annuity equal to the joint and 100 percent survivor annuity which the employee could have qualified for had the employee terminated service on the date of death. The surviving spouse may apply for the annuity at any time after the date on which the deceased employee would have attained the required age for retirement based on the employee's allowable service. The annuity shall must be computed as provided in sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1 and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred annuity payable under this subdivision. The annuity shall must cease with the last payment received by the surviving spouse in the lifetime of the surviving spouse. An amount equal to the excess, if any, of the accumulated contributions which were credited to the account of the deceased employee over and above in excess of the total of the benefits paid and payable to the surviving spouse shall must be paid to the deceased employee's last designated beneficiary or, if none, to the surviving children of the deceased spouse in equal shares or, if none, to the surviving parents of the deceased spouse or, if none, to the representative of the estate of such the deceased spouse. Any employee may request in writing that this subdivision not apply and that payment be made only to a designated beneficiary as otherwise provided by this chapter.

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Subd. 3. **REFUND OF \$1,500 OR LESS.** If a state employee or former state employee dies without having designated a beneficiary, or if the beneficiary should die before ~~making application~~ applying for refund of the sum to the credit of ~~such the~~ deceased employee or former employee, and there is no surviving spouse, and the amount of the refund does not exceed \$1,500 exclusive of interest, the director may; refund the amount to the deceased or former employee's next of kin. The amount may be refunded 90 days after the date of death of the employee or former employee in the absence of probate proceedings, and upon proper application make refund to the next of kin of the deceased employee or former employee, as. The next of kin must be determined by the director with the concurrence of the board, to be entitled thereto to the refund consistent with the laws of descent and such. A determination and payment without notice shall be are conclusive and final and shall be are a bar against claims of all other persons.

Subd. 4. **REFUND TO MINOR BENEFICIARY.** If an employee or former employee dies having named as a beneficiary a person who is a minor at the time of the application for refund, and the amount of the refund does not exceed \$1,500, exclusive of interest, the director in the absence of guardianship or probate proceedings may make payment to the natural guardian having custody of ~~such the~~ minor beneficiary, for the benefit of ~~such the~~ child. Any annuity, retirement allowance, or disability benefit ~~which had~~ accrued at the time of death of a disabled or retired employee, payable to a minor beneficiary, may similarly be paid; and such. Payment shall be is a bar to recovery by any other person or persons.

Subd. 5. **MONTHLY INSTALLMENTS.** The beneficiary or surviving spouse of any deceased employee or former employee entitled to receive a ~~refundment shall have~~ refund has the option of having the amount due paid in monthly installments in ~~such amounts as may~~ be agreed upon with the director.

Subd. 6. **DEATH AFTER SERVICE TERMINATION.** Except as provided in subdivision 1, if a former employee covered by the system dies and has not received an annuity, a retirement allowance, or a disability benefit, a ~~refundment shall~~ refund must be made to the last designated beneficiary or, if there ~~be~~ is none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate in an amount equal to accumulated employee contributions.

Subd. 7. **ABSENCE OF OPTIONAL OR REVERSIONARY ANNUITY.** If Upon the death of a retired employee ~~dies~~ who selected neither an optional annuity or a reversionary annuity, ~~there shall a refund must~~ be paid to the designated beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate; in an amount equal to the excess, if any, of the accumulated contributions to the credit of the retired employee immediately ~~prior to before~~ retirement ~~over and~~

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above in excess of the aggregate sum of (1) all annuities, retirement allowances, and disability benefits ~~which that~~ had been received and ~~which~~ had accrued in the lifetime of the decedent, and (2) the annuity, retirement allowance, or disability benefit if applicable, payable to the surviving spouse under section 352.115, subdivision 8, or 352.113, subdivision 4, for the calendar month in which the retired employee died. The refund must be paid to the named beneficiary or, if there be none, to the surviving spouse or, if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate.

Subd. 8. **OPTIONAL OR REVERSIONARY ANNUITY.** If the last eligible recipient of an optional annuity dies and the total amounts paid ~~thereunder~~ under it are less than the accumulated contributions to the credit of the retired employee immediately ~~prior to~~ before retirement, the balance of ~~such~~ accumulated contributions ~~shall~~ must be paid to the person designated by the retired employee in writing to receive ~~the same;~~ but payment. If no ~~such~~ designation has been made by the retired employee, the remaining balance of ~~such~~ accumulated contributions ~~shall~~ must be paid to the surviving children of the deceased recipient of the optional annuity in equal shares ~~or, if none;~~ If there are no surviving children, payment must be made to the deceased recipient's parents or, if none, to the representative of the deceased recipient's estate.

Subd. 9. **BENEFICIARY DESIGNATION.** The designation of a beneficiary or person to receive any accumulated contributions remaining to the credit of an employee, a former employee, or a retired employee, at the time of death, as provided in this section, must be in writing and must be filed with the director ~~prior to~~ before the death of the employee, former employee, or retired employee.

Subd. 10. **DEATH OF BENEFICIARY BEFORE REFUND.** If the last designated beneficiary or beneficiaries and the surviving spouse of a ~~(a)~~ (1) deceased employee, ~~(b)~~ (2) former employee, or ~~(c)~~ (3) retired employee, ~~should die~~ dies before receiving a refund of the sum to the credit of the deceased employee, former employee, or retired employee at the time of death, the refund ~~shall~~ must be made to the estate of the deceased employee or as provided in subdivision 3 if the amount of the refund does not exceed \$1,500 exclusive of interest.

Subd. 11. **DEATH OF DISABILITY ANNUITANT.** If an employee who has received a disability benefit dies, ~~there shall a payment~~ must be paid to the ~~last designated beneficiary or, if there be none, to the surviving spouse, or if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate;~~ made of an amount equal to the excess, if any, of the accumulated contributions to the credit of the employee at the time the disability benefit began to accrue over and above the aggregate of (1) all disability benefits received and which had accrued during life, and (2) the benefit for the month in which the disabled employee died, payable, if applicable, to the surviving spouse under section 352.113, subdivision 4. The payment must be paid to the last designat-

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ed beneficiary or, if there be none, to the surviving spouse, or if none, to the employee's surviving children in equal shares or, if none, to the employee's surviving parents in equal shares or, if none, to the representative of the estate.

Subd. 12. **REFUNDMENT REFUND, FAILURE TO REQUEST.** If the last designated beneficiary, surviving spouse, legal representative, or next of kin, as determined by the director with the concurrence of the board, fails to ~~make claim for refundment~~ the refund as provided in this section ~~(a)~~ (1) within five years from the date of death of a retired employee or disabled employee, or ~~(b)~~ (2) within five years after the last deduction was taken from the salary of a deceased employee or deceased former employee, the accumulated contributions of ~~such the~~ the deceased employee, former employee, retired employee, or disabled employee ~~shall must~~ be credited to the retirement fund; However, if claim to ~~refundment~~ refund is made within ten years after the transfer of accumulated contributions to the fund or within ten years after the date of death, whichever is later, and the amount transferred to the fund is over \$25, the sum ~~shall must~~ be restored to the account of such the deceased employee, former employee, retired employee, or disabled employee and ~~refundment shall.~~ The refund must then be made to the surviving spouse or, if none, to the legal representative of the estate irrespective of any designation of beneficiary made by the deceased employee, former employee, retired employee, or disabled employee.

Subd. 13. **REFUNDMENT REFUND, BENEFICIARY.** If ~~at the time of~~ upon death a former employee has in possession a commissioner of finance's warrant which does not exceed \$500 covering a ~~refundment~~ refund of accumulated contributions in the retirement fund, in the absence of probate proceedings ~~such the~~ the commissioner of finance's warrant may be returned for cancellation, and then upon application made by the last designated beneficiary of ~~such the~~ the deceased former employee, ~~refundment~~ refund of the accumulated contributions ~~shall be made~~ must be paid to the last designated beneficiary. Payments made under ~~the provisions of~~ this subdivision ~~shall be~~ are a bar to recovery by any other person or persons.

### 352.15 EXEMPTION FROM PROCESS AND TAXATION.

Subdivision 1. **GENERAL EXEMPTION; EXCEPTION TO PAY BANKING INSTITUTION.** None of the ~~moneys~~ money, annuities, or other benefits mentioned ~~herein~~ shall be in this chapter is assignable either in law or in equity or be subject to any state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.611. ~~Provided, however,~~ The executive director may pay an annuity, benefit, or refund to a banking institution, qualified under chapter 48, that is trustee for a person eligible to receive ~~such the~~ the annuity, benefit, or refund. Upon the request of a retired, disabled, or former employee, the executive director may mail the annuity, benefit, or refund check to a banking institution, savings association, or credit union for deposit to ~~such the~~ the employee's account or joint account with a spouse. The board of directors may prescribe the conditions under which ~~such~~ payments will be made.

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Subd. 2. **CORRECTING OVERPAYMENTS.** Upon certification to the director by the commissioner of finance or the regents of the University of Minnesota or the head of any other department or agency responsible for the processing of its payrolls, the director shall release part or all of any ~~moneys~~ money held for an employee in a retirement fund to correct a salary overpayment to an employee who has been erroneously paid. ~~Provided however that~~ The director shall not release ~~such moneys~~ the money until ~~such time as~~ the former employee or person otherwise entitled ~~thereto~~ to it would be eligible to apply for a refund and has been given proper notice. Amounts paid under the ~~provisions of~~ this subdivision shall be the equivalent of a refund. If an employee or survivor is entitled to an immediate or deferred annuity or survivor benefit, no funds shall be paid from a retirement account under this provision. The director shall prescribe the form and manner of certification.

#### 352.16 INSURANCE LAWS NOT TO APPLY.

None of the laws of this state regulating insurance or insurance companies ~~shall~~ apply to the Minnesota state retirement system or any of its funds.

#### 352.22 REFUND OR DEFERRED ANNUITIES.

Subdivision 1. **SERVICE TERMINATION.** Any employee who ceases to be a state employee by reason of termination of state service, ~~shall be is~~ entitled to a refund provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refund may be made 30 or more days after the termination of state service if the applicant has not again become a state employee required to be covered by the system.

Subd. 2. **AMOUNT OF REFUNDMENT REFUND.** Except as provided in subdivision 3, any person who ceased to be a state employee after June 30, 1973, by reason of termination of state service shall receive a ~~refundment~~ refund in an amount equal to employee accumulated contributions plus interest at the rate of five percent per ~~annum~~ year compounded annually. ~~Such~~ Interest ~~shall~~ must be computed to the first day of the month in which the refund is processed and ~~shall~~ must be based on fiscal year balances.

Subd. 2a. **AMOUNT OF CERTAIN REFUND.** For any employee who is entitled to receive a refund ~~pursuant to~~ under subdivision 1 and who, ~~prior to~~ before July 1, 1978, was a member of the metropolitan transit commission-transit operating division employees retirement fund, the refund for contributions made ~~prior to~~ before July 1, 1978 ~~shall be~~ must equal ~~to~~ the following amounts:

(a) For any employee contributions made ~~prior to~~ before January 1, 1950, the amount equal to one-half of the employee contributions without interest;

(b) For any employee contributions made ~~subsequent to~~ after December 31, 1949, but ~~prior to~~ before January 1, 1975, the amount of the employee contributions plus simple interest at the rate of two percent per ~~annum~~ year; and

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(c) For any employee contributions made ~~subsequent to~~ after December 31, 1974, but ~~prior to~~ before July 1, 1978, the amount of the employee contributions plus simple interest at the rate of 3-1/2 percent per annum year. The refund of contributions made on or after July 1, 1978 ~~shall~~, must be determined ~~pursuant to~~ under subdivision 2. Interest ~~shall~~ must be computed to the first day of the month in which the refund is processed and ~~shall~~ must be based on fiscal year balances. No refunds of contributions made to the metropolitan transit commission-transit operating division employees retirement fund received ~~prior to~~ before July 1, 1978, or for service rendered ~~prior to~~ before July 1, 1978, may be repaid.

Subd. 3. **DEFERRED ANNUITY.** (†) (a) Any employee with at least ten years of allowable service when ~~such~~ termination occurs may elect to leave the accumulated contributions in the fund and thereby be entitled to a deferred retirement annuity. This annuity ~~shall~~ must be computed ~~in the manner as~~ provided by the law in effect ~~at the time~~ when state service terminated, on the basis of allowable service ~~prior to~~ before termination of service.

(2) (b) An employee on layoff or on leave of absence without pay, except a leave of absence for health reasons, who does not return to state service shall have any annuity, deferred annuity, or other benefit to which the employee may become entitled computed under the law in effect on the last working day.

(3) (c) No application for a deferred annuity shall be made more than 60 days ~~prior to~~ before the time the former employee reaches the required age for entitlement to the payment of the annuity. The deferred annuity shall begin to accrue no earlier than 60 days ~~prior to~~ before the date the application is filed in the office of the system, but ~~in no event prior to~~ not (1) before the date the employee reaches the required age for entitlement to the annuity nor ~~prior to~~ (2) before the day following the termination of state service in a position not covered by the retirement system nor ~~prior to~~ (3) before the day following the termination of employment in a position ~~which that~~ requires the employee to be a member of either the public employees retirement association or the teachers retirement association.

(4) (d) Application for the accumulated contributions left on deposit with the fund may be made at any time after 30 days following the date of termination of service.

Subd. 5. **REFUNDMENT REFUND GENERALLY UNLIMITED.** The right of ~~refundment~~ refund provided in this section is not restricted as to time unless specifically provided and the statute of limitation does not apply ~~thereto~~ to it.

Subd. 8. **REFUND SPECIFICALLY LIMITED.** If a former employee covered by the system does not apply for refund within five years after the last deduction was taken from salary for the retirement fund, and does not have ~~sufficient~~ enough service to qualify for a deferred annuity ~~such~~, accumulated contributions ~~shall~~ must be credited to and become a part of the retirement

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fund. ~~In the event~~ If the former employee returns to state service and becomes a state employee covered by the system, the amount ~~so~~ credited to the retirement fund, if more than \$2, shall be restored to the individual account. If the amount ~~so~~ credited to the fund is over \$2 and the former employee applies for refund or an annuity ~~pursuant to the provisions of~~ under section 352.72, the amount ~~shall~~ must be restored to the former employee's individual account and refund made or annuity paid whichever applies.

Subd. 9. ~~REFUNDMENT~~ REFUND FOR PERSONS COMMITTED TO STATE HOSPITALS. While a former employee is under commitment as an inmate of a state hospital under the jurisdiction of the commissioner of human services, or of a similar public authority if the former employee is an inmate of a state hospital of another state, and if the inmate is entitled to a ~~refundment~~ refund of accumulated employee contributions in the retirement fund in an amount not to exceed \$300, ~~refundment~~ refund of ~~such~~ accumulated contributions may be made, upon appropriate application ~~therefor,~~ to the superintendent of ~~such~~ the state hospital of this state, or similar public authority of another state if authorized ~~so~~ to do so by the laws of that state; ~~and such refundment shall be.~~ The refund is a bar to recovery by any other person or persons.

Subd. 10. OTHER REFUNDS. Former employees covered by the system ~~who are entitled to apply for refunds if they are or who~~ become members of the state patrol retirement fund, the state teacher's retirement association, or employees of the University of Minnesota excluded from coverage under the system by action of the board of regents; or labor service employees, excluded from coverage under section 352.01, subdivision 2B, clause (26); or employees of the adjutant general who under federal law effectually elect membership in a federal retirement system; or officers or employees of the senate or house of representatives, excluded from coverage under section 352.01, subdivision 2B, clause (8); ~~shall be entitled to make application for a refund of their.~~ The refunds must include accumulated contributions plus interest as provided in subdivision 2; ~~upon the expiration of.~~ These employees may apply 30 days or more after their coverage ceases, ~~notwithstanding their continuance even if they continue~~ in state service but in positions not covered by this chapter.

#### 352.23 TERMINATION OF RIGHTS.

When any employee accepts a refund as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled ~~prior to the acceptance of such~~ before accepting the refund ~~shall~~ terminate ~~and shall.~~ They must not again be restored until the former employee acquires ~~not less than~~ at least one year's allowable service credit ~~subsequent to~~ after taking the last refund. In that event, the employee may repay all refunds previously taken from the retirement fund. Repayment of refunds ~~will entitle~~ entitles the employee only to credit for service covered by ~~(a)~~ (1) salary deductions, ~~(b)~~ (2) payments made in lieu of salary deductions, and ~~(c)~~ (3) payments made to obtain credit for service as permitted by laws in effect ~~at the time when~~ payment was made. If an employee before taking one or more refunds had

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credit for prior service or for military service without payment in either case, the employee may obtain credit for ~~such any~~ forfeited service ~~prior to before~~ July 1, 1929, and for ~~such any~~ forfeited military service by making payments at a contribution rate of three percent of the average salary upon which deductions for the retirement fund were based, for the three year period immediately preceding repayment of refund for service credit ~~prior to before~~ July 1, 1929, and on the salary received at the time of entering military service to restore military service credit. ~~All such~~ Payments and repayment of refunds are to be paid with interest at six percent per ~~annum year~~ compounded annually ~~and~~. They may be paid in a lump sum or by payroll deduction in the manner provided in section 352.04.

### 352.27 CREDIT FOR MILITARY SERVICE.

Any employee given a leave of absence to enter military service who returns to state service upon discharge from military service as provided in section 192.262, may obtain credit for the period of military service ~~but shall~~. The employee is not be entitled to credit for any voluntary extension of military service at the instance of the employee beyond the initial period of enlistment, induction, or call to active duty, nor to credit for any period of service following a voluntary return to military service. ~~Such An~~ employee may obtain ~~such~~ credit by paying into the fund an employee contribution based upon the salary received at the date of return from military service. The amount of this contribution ~~shall must~~ be the applicable amounts required in section 352.04, subdivision 2, plus interest at six percent per ~~annum year~~ compounded annually. ~~In such cases~~ The matching employer contribution and additional contribution provided in section 352.04 ~~shall must~~ be paid by the department employing ~~such the~~ employee upon return to state service from funds available to ~~such the~~ department at the time and in the manner provided in section 352.04.

### 352.271 METROPOLITAN TRANSIT COMMISSION-TRANSIT OPERATING DIVISION EMPLOYEES; CREDIT FOR MILITARY SERVICE.

Any employee of the metropolitan transit commission operating division who was on a leave of absence to enter military service on July 1, 1978, who has not taken a refund of employee contributions as authorized by article 12 of the metropolitan transit commission-transit operating division employees retirement fund document or section 352.22, subdivision 2a, and who returns to service as an employee of the metropolitan transit commission-transit operating division upon discharge from military service as provided in section 192.262 ~~shall be is~~ entitled to ~~receive~~ allowable service credit for the period of military service. If an employee has taken a refund of employee contributions as ~~authorized~~, and would otherwise be entitled to ~~receive~~ allowable service credit ~~pursuant to under~~ this section, the employee ~~shall be is~~ entitled to ~~receive~~ allowable service credit for the period of military service upon repayment to the executive director of the ~~Minnesota state retirement~~ system of the amount refunded plus interest at the rate of six percent per ~~annum year~~ compounded annually from the date on which the refund was taken to the date of repayment. No employee

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shall be ~~is~~ entitled to receive allowable service credit for any voluntary extensions of military service at the instance of the employee beyond any initial period of enlistment, induction, or call to active duty.

**352.72 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.**

Subdivision 1. **ENTITLEMENT TO ANNUITY.** (a) Any person who has been an employee covered by the Minnesota state a retirement system; or a member of the public employees retirement association including the public employees retirement association police and firefighters' fund; or the teachers retirement association; or the state patrol retirement association; or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police officers or firefighters shall be listed in paragraph (b) is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ten or more years; provided,

(b) This section applies to the Minnesota state retirement system, the public employees retirement association including the public employees retirement association police and firefighters fund, the teachers retirement association, the state patrol retirement association, or any other public employee retirement system in the state with a similar provision, except as noted in paragraph (c).

(c) This section does not apply to other funds providing benefits for police officers or firefighters.

(d) No portion of the allowable service upon which the retirement annuity from one fund is based ~~is shall be~~ again used in the computation for benefits from another fund ~~and provided further that a.~~ No refund has not may have been taken from any one of these funds since service entitling the employee to coverage under the system or the employee's membership in any of the associations last terminated. The annuity from each fund ~~shall must~~ be determined by the appropriate provisions of the law except that the requirement that a person must have at least ten years allowable service in the respective system or association ~~shall does not~~ apply for the purposes of this section provided if the combined service in two or more of these funds equals ten or more years.

Subd. 2. **COMPUTATION OF DEFERRED ANNUITY.** The deferred annuity, if any, accruing under subdivision 1, or section 352.22, subdivision 3, ~~shall must~~ be computed ~~in the manner as~~ provided in section 352.22, subdivision 3, on the basis of allowable service ~~prior to~~ before termination of state service and augmented as provided herein. The required reserves applicable to a deferred annuity or to an annuity for which a former employee was eligible but had not applied or to any deferred segment of an annuity ~~shall must~~ be determined as of the date the benefit begins to accrue and augmented by interest compounded annually from the first day of the month following the month in which the employee ceased to be a state employee, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The

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rates of interest used for this purpose ~~shall~~ must be five percent compounded annually until January 1, 1981, and ~~thereafter~~ after that date three percent compounded annually. If a person has more than one period of uninterrupted service, the required reserves related to each period ~~shall~~ must be augmented by interest ~~pursuant to~~ under this subdivision. The sum of the augmented required reserves so determined ~~shall be~~ is the present value of the annuity. "Uninterrupted service" for the purpose of this subdivision ~~shall mean~~ means periods of covered employment during which the employee has not been separated from state service for more than two years. If a person repays a ~~refundment~~ refund, the service restored by the repayment ~~shall~~ must be considered as continuous with the next period of service for which the employee has credit with this system. The formula percentages used for each period of uninterrupted service ~~shall~~ must be those as ~~would~~ be applicable to a new employee. The mortality table and interest assumption used to compute the annuity ~~shall~~ must be those in effect ~~at the time~~ when the employee files application for annuity. This section shall not reduce the annuity otherwise payable under this chapter.

Subd. 4. ~~REFUNDMENT REFUND REPAYMENT~~. Any person who has received a ~~refundment~~ refund from the state employees retirement fund, and who is a member of a public retirement system included in subdivision 1, may repay ~~such refundment~~ the refund with interest to the state employees retirement fund. If a ~~refundment~~ refund is repaid to the fund and more than one ~~refundment~~ refund has been received from the fund, all ~~refundments~~ refunds must be repaid. ~~Such~~ Repayment ~~shall~~ must be made as provided in section 352.23, and under ~~such~~ terms and conditions consistent ~~therewith~~ with that section as ~~may~~ be agreed upon with the director.

Subd. 5. ~~EARLY RETIREMENT~~. The requirements and provisions for retirement ~~prior to~~ before age 65 in sections 352.115, subdivision 1, and 352.116 ~~shall~~ also apply to an employee fulfilling ~~such~~ the requirements with a combination of service as provided in subdivision 1.

#### 352.73 SUPPLEMENTAL BENEFIT FOR FORMER STATE EMPLOYEES.

Subdivision 1. ~~ELIGIBILITY; AMOUNT~~. Any person who ~~at on~~ on June 30, 1963, was receiving from the state employees retirement fund an annuity or retirement allowance based upon ~~not less than~~ at least 20 years allowable service, who is receiving ~~such~~ the annuity or retirement allowance on June 30, 1967, and

(a) (1) who did not have social security coverage as a state employee shall receive on and after July 1, 1967, the following supplemental benefit: \$18 a month, or

(b) (2) who had social security coverage as a state employee and who was eligible to receive either an immediate social security benefit or who would become eligible to receive a social security benefit based in whole or in part upon social security coverage as a state employee shall receive on and after July 1, 1967, a supplemental benefit of \$10 a month.

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Subd. 2. **PURPOSE; ADMINISTRATION.** The supplemental benefit payable under subdivision 1 hereof shall must not be paid to any person receiving, or who may become eligible to receive, a survivor benefit pursuant to the employee's election of an employee to take an optional annuity or a reversionary annuity; nor shall such. A supplemental benefit must not be paid to any person receiving a survivor benefit under Minnesota Statutes 1957, section 352.117, subdivisions 1 and 2, as amended, or to any employee receiving a disability benefit. Such A supplemental payment shall must be paid to a surviving spouse receiving payment as provided in section 352.115, subdivision 8.

Subd. 3. The supplemental benefit ~~herein~~ provided in this section is for the ~~purpose of relief in the present inflationary period and is not an increase in the amount of the annuity or retirement allowance~~ such the retired state employee receives from the state employees retirement fund. This supplemental benefit is not a vested right and the legislature reserves the power to withdraw, abolish, or modify it in any way. The benefits ~~herein~~ provided for shall in this section must be administered by the director of the Minnesota state employees retirement system. These supplemental benefits shall must be paid in the same manner and at the same time annuities and retirement allowances are paid and. For the purpose of economy, ~~such~~ benefits may be included in the warrants on which the annuities are paid. Money certified by the director to the commissioner of finance as needed to meet the state's obligations to the state employees retirement fund shall must be transferred to the fund at least once a month.

### 352.75 TRANSFER OF PENSION COVERAGE SAVINGS CLAUSE; INCREASE IN EXISTING ANNUITIES AND BENEFITS.

Subdivision 1. **EXISTING EMPLOYEES.** Notwithstanding any ~~provisions~~ of law to the contrary, as of July 1, 1978, all active employees of the transit operating division of the metropolitan transit commission and all employees on authorized leaves of absence from the transit operating division who are employed on July 1, 1978, by a labor organization which is the exclusive bargaining agent representing employees of the transit operating division shall cease to be members of the metropolitan transit commission-transit operating employees retirement fund and shall cease to have any accrual of service credit, rights, or benefits under that retirement fund. ~~From and After July 1, 1978, all active employees of the transit operating division of the metropolitan transit commission and all employees on authorized leaves of absence from the transit operating division who are employed on July 1, 1978, by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division shall be those employees become~~ members of the Minnesota state retirement system, ~~shall be are~~ considered state employees for purposes of this chapter, unless specifically excluded ~~pursuant to by~~ section 352.01, subdivision 2B, and shall have past service with the transit operating division of the metropolitan transit commission credited by the Minnesota state retirement system in accordance with section 352.01, subdivision 11, clause (10). Any employees on authorized leaves of absence from the transit operating division of the metropolitan transit commission who become employed by the labor organization which

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is the exclusive bargaining agent representing employees of the transit operating division after July 1, 1978, shall be entitled to be members of the Minnesota state retirement system ~~pursuant to~~ under section 352.029.

Subd. 2. **NEW EMPLOYEES.** All persons first employed by the metropolitan transit commission as employees of the transit operating division on or after July 1, 1978, ~~shall be~~ are members of the Minnesota state retirement system and ~~shall be~~ are considered state employees for purposes of this chapter unless specifically excluded ~~pursuant to~~ under section 352.01, subdivision 2B.

Subd. 3. **EXISTING RETIRED MEMBERS AND BENEFIT RECIPIENTS.** As of July 1, 1978, the liability for all retirement annuities, disability benefits, survivorship annuities, and survivor of deceased active employee benefits paid or payable by the metropolitan transit commission-transit operating division employees retirement fund ~~shall be~~ is transferred to the Minnesota state retirement system, and ~~shall is~~ no longer be the liability of the metropolitan transit commission-transit operating division employees retirement fund. The required reserves for retirement annuities, disability benefits, and optional joint and survivor annuities in effect on ~~the day prior to July 1~~ June 30, 1978, and the required reserves for the increase in annuities and benefits provided ~~pursuant to~~ under subdivision 6 ~~shall~~ must be determined using a five percent interest assumption and the applicable Minnesota state retirement system mortality table and shall be transferred by the Minnesota state retirement system to the Minnesota postretirement investment fund on July 1, 1978, but shall be considered transferred as of June 30, 1978. The annuity or benefit amount in effect on July 1, 1978, including the increase granted ~~pursuant to~~ under subdivision 6, ~~shall be~~ utilized must be used for purposes of any adjustments made ~~pursuant to~~ under section 11A.18. For persons receiving benefits as survivors of deceased former retirement annuitants, the benefits ~~shall~~ must be considered as having commenced on the date on which the retirement annuitant began receiving the retirement annuity.

Subd. 4. **EXISTING DEFERRED RETIREES.** Any former member of the metropolitan transit commission-transit operating division employees retirement fund ~~who is entitled to a retirement annuity from the Minnesota state retirement system if the employee:~~

(1) is not an active employee of the transit operating division of the metropolitan transit commission on July 1, 1978; ~~who;~~ (2) has at least ten years of active continuous service with the transit operating division of the metropolitan transit commission as defined by the metropolitan transit commission-transit operating division employees retirement plan document in effect on December 31, 1977; ~~who;~~ (3) has not received a refund of contributions ~~and who;~~ (4) has not retired or begun receiving an annuity or benefit from the metropolitan transit commission-transit operating division employees retirement fund ~~shall be~~ entitled to a retirement annuity from the Minnesota state retirement system ~~upon attaining the age of;~~ (5) is at least 55 years ~~and submitting old;~~ and (6) ~~submits~~ a valid application for a retirement annuity to the executive director of the Minnesota state retirement system.

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The person ~~shall be~~ is entitled to a retirement annuity in an amount equal to the normal old age retirement allowance calculated under the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977, subject to an early retirement reduction or adjustment in amount on account of retirement ~~prior to~~ before the normal retirement age specified in that metropolitan transit commission-transit operating division employees retirement fund plan document.

The deferred retirement annuity of any person to whom this subdivision applies ~~shall must~~ be augmented. The required reserves applicable to the deferred retirement annuity, determined as of the date the allowance begins to accrue using an appropriate mortality table and an interest assumption of five percent, ~~shall must~~ be augmented by interest at the rate of five percent per ~~annum~~ year compounded annually from January 1, 1978, to January 1, 1981, and three percent per ~~annum~~ year compounded annually from January 1, 1981 to the first day of the month in which the annuity begins to accrue. Upon the commencement of the retirement annuity, the required reserves for the annuity ~~shall must~~ be transferred to the Minnesota postretirement investment fund in accordance with subdivision 2 and section 352.119. ~~Upon application~~ On applying for a retirement annuity under this subdivision, the person ~~shall be~~ is entitled to elect a joint and survivor optional annuity ~~pursuant to~~ under section 352.116, subdivision 3.

**Subd. 5. SAVINGS CLAUSE FOR CERTAIN EXISTING EMPLOYEES.**

Any person who is a member of the metropolitan transit commission-transit operating division employees retirement fund on July 1, 1978 ~~shall be,~~ is entitled to retain past and prospective rights under the retirement benefit formula, normal retirement age, and early reduced retirement age provisions of the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on July 1, 1978, in lieu of the provisions ~~contained~~ in sections 352.115; 352.116; 352.22, subdivisions 3 to 11; and 356.30.

**Subd. 6. INCREASE IN EXISTING ANNUITIES AND BENEFITS.** All persons receiving retirement allowances or annuities, disability benefits, survivorship annuities and survivor of deceased active employee benefits from the metropolitan transit commission-transit operating division employees retirement fund on December 31, 1977, and on July 1, 1978, ~~shall be~~ are entitled to have ~~that retirement allowance or annuity, disability benefit, survivorship annuity or survivor of deceased active employee benefit~~ the allowances, annuities, or benefits increased by an amount equal to \$20 per month. Notwithstanding section 356.18, increases in payments ~~pursuant to~~ under this subdivision ~~shall~~ must be made automatically unless the intended recipient files written notice with the executive director of the Minnesota state retirement system requesting that the increase ~~shall~~ not be made. If any actuarial reduction or adjustment was applied to the retirement allowance or annuity, disability benefit, survivorship annuity, or survivor of deceased active employee benefit, the increase specified in this subdivision ~~shall~~ must be similarly reduced or adjusted. Upon the death of any person receiving an annuity or benefit ~~where if~~ the person made elected a

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joint and survivor optional annuity election, the survivor ~~shall be~~ is entitled to the continued receipt of the increase provided for under this subdivision; ~~provided, however, that, but~~ the increase ~~shall~~ must be reduced or adjusted in accordance with the optional annuity election.

#### 352.76 GENERAL ADMINISTRATION.

The provisions of This chapter ~~shall govern in all instances~~ governs where not inconsistent with the provisions of Laws 1978, chapter 538.

### SPECIAL COVERAGE

#### 352.85 ~~SPECIAL RETIREMENT COVERAGE FOR MILITARY AFFAIRS DEPARTMENT PERSONNEL.~~

Subdivision 1. **ELIGIBILITY; RETIREMENT ANNUITY.** Any person who is employed by the department of military affairs who is covered by the general employee retirement plan of the Minnesota state retirement system as provided in section 352.01, subdivision 23, who is ordered to active duty ~~pursuant to under~~ section 190.08, subdivision 3, who elects this special retirement coverage ~~pursuant to under~~ subdivision 4, who is required to retire from federal military status at the age of 60 years by applicable federal laws or regulations and who terminates employment as a state employee upon attaining that age ~~shall be~~ is entitled, upon application, to a retirement annuity computed in accordance with section 352.115, subdivisions 2 and 3, without any reduction for early retirement ~~pursuant to under~~ section 352.116, subdivision 1.

Subd. 2. **DISABILITY BENEFIT.** An employee described in subdivision 1, who is less than 60 years of age and who ~~shall become~~ becomes disabled and physically or mentally unfit to perform occupational duties due to injury, sickness, or other disability, and who ~~shall be~~ is found disqualified for retention on active duty as a result of a physical examination required by applicable federal laws or regulations, ~~shall be~~ is entitled upon application to disability benefits computed in the ~~same manner as~~ specified in section 352.113. Disability benefits ~~shall be~~ are otherwise governed by section 352.113, except that the age for the termination of the disability benefit ~~shall be~~ is 60 years.

Subd. 3. **ADDITIONAL CONTRIBUTIONS.** The special retirement annuities and disability benefits authorized by this section shall be financed by an employee contribution from the covered department of military affairs employee of 1.6 percent and an employer contribution from the department of military affairs of 1.6 percent; ~~which.~~ These contributions ~~shall be~~ are in addition to the contributions required by section 352.04, subdivisions 2 and 3; ~~and shall.~~ They must be made ~~in the manner as provided for~~ in section 352.04, subdivisions 4, 5, and 6.

Subd. 4. **ELECTION OF COVERAGE.** To be covered by the provisions of Laws 1980, chapter 607, any employee of the department of military affairs, described in subdivision 1, who is employed on July 1, 1980, or is first employed

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in such position after July 1, 1980, shall by ~~August 1, 1980, or within 30 days of~~ their employment, whichever is later, must file a notice with the executive director of the ~~Minnesota state retirement~~ system on a form prescribed by the executive director stating whether or not the employee elects to be covered. Notice must be filed by August 1, 1980, or within 30 days of employment, whichever is later. Elections shall be are irrevocable during any period of covered employment.

Subd. 5. **RESTRICTION ON COVERAGE.** Nothing in this section shall be construed to apply applies to the adjutant general.

Subd. 6. **ACTUARIAL VALUATION EXHIBIT.** In each valuation of the ~~Minnesota state retirement~~ system prepared pursuant to under section 356.215, an exhibit pertaining to this special retirement program shall be included which shall contain for the special program those actuarial valuation contents items specified in section 356.215, subdivisions 4 to 4k, which the executive director deems are necessary to adequately disclose the actuarial condition of the special program.

#### 352.86 **SPECIAL COVERAGE FOR TRANSPORTATION DEPARTMENT PILOTS.**

Subdivision 1. **ELIGIBILITY; RETIREMENT ANNUITY.** ~~Any A~~ person who is employed by the department of transportation in the civil service employment classification of aircraft pilot or chief pilot who is covered by the general employee retirement plan of the ~~Minnesota state retirement~~ system pursuant to under section 352.01, subdivision 23, who elects this special retirement coverage pursuant to under subdivision 3, who is prohibited from performing the duties of aircraft pilot or chief pilot after ~~attaining the age of~~ reaching age 62 years by a rule adopted by the commissioner of transportation and who terminates employment as a state employee ~~upon attaining on reaching~~ that age shall be is entitled, upon application, to a retirement annuity computed in accordance with section 352.115, subdivisions 2 and 3, without any reduction for early retirement pursuant to under section 352.116, subdivision 1.

Subd. 1a. **DISABILITY BENEFITS.** An employee described in subdivision 1, who is less than 62 years of age and who becomes disabled and physically or mentally unfit to perform occupational duties due to injury, sickness, or other disability, and who is found disqualified for retention as chief pilot or pilot as a result of a physical examination required by applicable federal laws or regulations, shall be is entitled upon application to disability benefits for a maximum of five years in the amount of 75 percent of current monthly salary, to be paid by the appointing authority from the state airports fund. ~~In no case shall~~ Disability benefits must not continue ~~beyond the after the~~ employee reaches age of 62 years. These benefits are in lieu of all other state benefits for the disability, including, but not limited to, workers' compensation benefits.

Subd. 2. **ADDITIONAL CONTRIBUTIONS.** The special retirement annuity authorized by subdivision 1 shall be financed by an employee contribution

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from the covered aircraft pilot or chief pilot of 1.6 percent and an employer contribution from the department of transportation of 1.6 percent; ~~which~~ These contributions ~~shall be~~ are in addition to the contributions required by section 352.04, subdivisions 2 and 3, ~~and shall~~. They must be made in the manner provided for in section 352.04, subdivisions 4, 5, and 6.

Subd. 3. **ELECTION OF COVERAGE.** To be covered by ~~the provisions of~~ this section, an employee of the department of transportation described in subdivision 1 who is employed in the described position on July 1, 1982, ~~or thereafter shall, by August 1, 1982, or within 90 days of their employment, whichever is later, after must~~ file a notice with the executive director of the Minnesota state retirement system on a form prescribed by the executive director stating whether or not the employee elects to be covered by this special plan. Notice must be filed by August 1, 1982, or within 90 days of employment, whichever is later. Elections ~~shall be~~ are irrevocable during any period of covered employment.

Subd. 4. **ACTUARIAL VALUATION EXHIBIT.** In each valuation of the ~~Minnesota state retirement~~ system prepared pursuant to under section 356.215, an exhibit pertaining to this special retirement program ~~shall must~~ be included ~~which shall and must~~ contain for the special program those actuarial valuation content items specified in section 356.215, subdivisions 4 to 4k, which the executive director deems ~~are~~ necessary to adequately disclose the actuarial condition of the special program.

## CORRECTIONAL EMPLOYEES

### 352.90 ~~CORRECTIONAL EMPLOYEES~~ POLICY.

It is the policy of the legislature to provide special retirement benefits and contributions for certain correctional employees who may be required to retire at an early age because they are ~~unable to retain~~ lose the mental or physical capacity required to maintain the safety, security, discipline, and custody of inmates at state adult correctional facilities.

### 352.91 COVERED CORRECTIONAL SERVICE.

Subdivision 1. **QUALIFYING JOBS.** "Covered correctional service" means: ~~(a) (1)~~ (1) services performed on, before, or after July 1, 1973, by a state employee, as defined in section 352.01, as an attendant guard, attendant guard supervisor, correctional captain, correctional counselor I, correctional counselor II, correctional counselor III, correctional counselor IV, correctional lieutenant, correctional officer, correctional sergeant, director of attendant guards, and guard farmer garden, provided the employee was employed in ~~such the~~ the position on July 1, 1973, ~~or thereafter after~~; ~~(b) (2)~~ (2) services performed before July 1, 1973, by an employee covered under clause ~~(a) (1)~~ (1) in a position classified as a houseparent, special schools counselor, shop instructor, or guard instructor; and ~~(c) (3)~~ (3) services performed before July 1, 1973, in a position listed in clause ~~(a) (1)~~ (1) and positions classified as houseparent, guard instructor, and guard farmer dairy, by a person employed on July 1, 1973, in a position classified as a license plant

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manager, prison industry lead supervisor (general, metal fabricating and foundry), prison industry supervisor, food service manager, prison farmer supervisor, prison farmer assistant supervisor, or rehabilitation therapist employed at the Minnesota security hospital. However, an employee shall ~~is~~ not be covered ~~hereunder~~ under sections 352.91 to 352.951 if first employed after July 1, 1973, and who because of age could not acquire sufficient service to qualify for an annuity as a correctional employee.

Subd. 2. **TEACHING, MAINTENANCE, AND TRADES.** "Covered correctional service" ~~shall~~ also ~~mean~~ means service rendered at any time by state employees as special teachers, maintenance personnel, and members of trades certified by the commissioner of employee relations as being regularly engaged in rehabilitation, treatment, custody, or supervision of inmates employed at the Minnesota correctional facility-St. Cloud, the Minnesota correctional facility-Stillwater and the Minnesota correctional facility-Shakopee on or after July 1, 1974, other than any employees who are age 62 years of age or older as of July 1, 1974, ~~and,~~ Effective the first payroll period after June 1, 1980, or the date of initial employment in covered correctional service, whichever is later, shall "covered correctional service" also ~~include~~ includes those employees of the Minnesota correctional facility-Lino Lakes and the employees of any other adult state correctional facility which may be established, who perform covered correctional service after June 1, 1980. ~~The term~~ "Special teacher" ~~shall~~ also ~~include~~ includes the classifications of facility educational administrator and supervisor.

Subd. 3. "Covered correctional service" includes service rendered ~~prior to~~ before July 1, 1973, in a classification of farmer or farm manager by an employee employed in a covered correctional position on July 1, 1973. Services performed before July 1, 1974, in a classification defined in subdivisions 1, ~~clause (a)~~ clauses (1) and (b) (2), and 2 by an employee in a covered correctional position on or after July 1, 1974, ~~shall be~~ are covered correctional service and ~~shall be~~ applicable apply to employees retiring after July 1, 1974. The portion of the retirement benefit payable to any special teacher who was covered by the correctional plan under subdivision 2 and who retires after July 1, 1974, which is based on service rendered ~~prior to~~ before July 1, 1974, if ~~such~~ that service was covered by the state teachers retirement basic formula, ~~shall~~ must be not less than at least the benefit determined using ~~such~~ the basic formula and ~~shall~~ must never be less than the benefit ~~which~~ that would have been payable on ~~such~~ the service under the basic formula adjusted for the number of months the employee is under age 65 at date of retirement.

Subd. 3a. **SECURITY GUARDS.** "Covered correctional service" ~~shall~~ also ~~mean~~ means service rendered ~~prior to~~ before January 1, 1981, in the classification of security guard by any employee employed in a covered correctional position on January 1, 1981.

Subd. 3b. **OLDER EMPLOYEES FORMERLY EXCLUDED.** "Covered correctional service" also means service performed by certain state employees in

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positions usually covered by this section who: (1) were excluded by law from coverage between July 1973 and July 1980 if they; (2) were age 45 years of age or over when hired; ~~provided they;~~ (3) are state employees on March 26, 1986; and ~~provided they~~ (4) elect coverage. Eligible employees who elect coverage must file written notice of their election with the director ~~prior to~~ before July 1, 1986.

Subd. 4. ~~Upon the recommendation of the commissioner of corrections or the commissioner of human services, whichever is the appropriate employing authority, with the approval of the legislative advisory committee and with notification to and receipt of comments from the legislative commission on pensions and retirement, Under certain conditions,~~ the commissioner of employe relations may certify additional civil service classifications at state adult correctional or security hospital facilities to the executive director of the Minnesota state retirement system as positions rendering covered correctional service. To certify a classification, the commission must:

(1) have the recommendation of the commissioner of corrections or the commissioner of human services, whichever is the appropriate employing authority;

(2) have the approval of the legislative advisory committee; and

(3) have notified and received comments from the legislative commission on pensions and retirement.

#### 352.92 CORRECTIONAL EMPLOYEE CONTRIBUTIONS.

Subdivision 1. **EMPLOYEE CONTRIBUTIONS.** Beginning with the first full pay period after July 1, 1984, in lieu of employee contributions payable under section 352.04, subdivision 2, contributions by covered correctional employees ~~shall~~ must be in an amount equal to 4.90 percent of salary.

Subd. 2. **EMPLOYER CONTRIBUTIONS.** Beginning with the first full pay period after July 1, 1984, in lieu of employer contributions payable under section 352.04, subdivision 3, the employer shall contribute for covered correctional employees an amount equal to 8.70 percent of salary.

#### 352.93 RETIREMENT ANNUITY.

Subdivision 1. **BASIS OF ANNUITY; WHEN TO APPLY.** After separation from state service an employee covered under section 352.91 who has ~~attained the~~ reached age of ~~at least~~ 55 years and has credit for ~~not less than a total of at least~~ ten years of covered correctional service and regular Minnesota state retirement system service ~~shall be~~ is entitled upon application to a retirement annuity under this section based only on covered, correctional employees' service. Application may be made no earlier than 60 days ~~prior to~~ before the date the employee is eligible to retire by reason of both age and service requirements.

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For the purpose In of this section, "average salary" means the average of the monthly salary during the employees' highest five successive years of salary as an employee covered by the Minnesota state retirement system.

Subd. 2. **CALCULATING MONTHLY ANNUITY.** The monthly annuity under this section ~~shall~~ must be determined by multiplying the average monthly salary by the number of years, or completed months, of covered correctional service by 2.5 percent for the first 25 years of correctional service and two percent for each year thereafter; ~~provided~~ after that. However, the monthly annuity ~~shall~~ must not exceed 75 percent of the average monthly salary.

Subd. 3. **PAYMENTS; DURATION AND AMOUNT.** The annuity under this section shall begin to accrue as provided in section 352.115, subdivision 8, and ~~shall~~ must be paid for an additional 84 full calendar months or to the first of the month following the month in which the employee becomes age 65, whichever occurs first, except that ~~in no event shall~~ payment must not cease ~~prior to before~~ the first of the month following the month in which the employee becomes 62; ~~and~~. It must then be reduced to the amount as calculated under section 352.115, except that if this amount, when added to the social security benefit based on state service the employee is eligible to receive at ~~such the~~ time, is less than the benefit payable under subdivision 2, the retired employee shall receive an amount that when added to ~~such the~~ social security benefit will equal the amount payable under subdivision 2.

When an annuity is reduced under this subdivision, the percentage adjustments, if any, that have been applied to the original annuity under section 11A.18, ~~prior to before~~ the reduction, ~~shall~~ must be compounded and applied to the reduced annuity. A former correctional employee employed by the state in a position covered by the regular plan between the ages of 58 and 65 shall receive a partial return of correctional contributions at retirement with five percent interest based on the following formula:

Employee contributions contributed as a correctional employee in excess of the contributions <del>such the</del> employee would have contributed as a regular employee	X	Years and complete months of regular service between ages 58 and 65 ..... 7
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Subd. 4. **EMPLOYEE WITH REGULAR AND CORRECTIONAL SERVICE.** A former employee who has both regular and correctional service shall, if qualified, receive an annuity based on both periods of service under applicable sections of law but no period of service shall be used more than once in calculating the annuity.

**352.94 AUGMENTATION FOR EMPLOYEES WITH REGULAR AND CORRECTIONAL SERVICE.**

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

Subdivision 1. **CHANGE FROM REGULAR TO CORRECTIONAL SERVICE.** An employee who becomes a correctional employee after serving as a regular employee ~~shall be~~ is covered under section 352.72, subdivision 2, with respect to the regular service.

Subd. 2. **CHANGE FROM CORRECTIONAL TO REGULAR SERVICE.** An employee who becomes a regular employee after serving as a correctional employee ~~shall is~~ is not ~~be~~ covered under section 352.72, subdivision 2, with respect to correctional service.

### 352.95 DISABILITY BENEFITS.

Subdivision 1. **JOB-RELATED DISABILITY.** ~~Any~~ A covered correctional employee less than 55 years of age old who ~~shall become~~ becomes disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty ~~which shall render that makes~~ the employee physically or mentally unable to perform the duties, ~~shall be is~~ is entitled to a disability benefit based on covered correctional service only; ~~in an.~~ The benefit amount must equal ~~to~~ 50 percent of the average salary defined in section 352.93, plus an additional 2-1/2 percent for each year of covered correctional service in excess of 20 years but not in excess of 25 years, and two percent for each year of covered correctional service in excess of 25 years, prorated for completed months, to a maximum monthly benefit of 75 percent of the average monthly salary.

Subd. 1a. **OPTIONAL ANNUITY ELECTION.** A disabled correctional employee may elect the normal disability benefit or an optional annuity as provided in section 352.116, subdivision 3. The election of an optional annuity ~~shall must~~ be made prior to ~~before~~ commencement of payment of the disability benefit and ~~shall be~~ becomes effective the date on which the disability benefit begins to accrue as provided in subdivision 3. Upon becoming effective, the optional annuity shall begin to accrue on the same date as provided for the disability benefit.

Subd. 2. **NON-JOB-RELATED DISABILITY.** Any covered correctional employee who, after ~~not less than~~ at least five years of covered correctional service, before reaching the age of 55 ~~shall become~~ becomes disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, ~~shall be is~~ is entitled to a disability benefit based on covered correctional service only. The disability benefit ~~shall must~~ be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least ten years of covered correctional service.

Subd. 3. **APPLYING FOR BENEFITS; ACCRUAL.** No application for disability benefits shall be made until after the last day physically on the job. The disability benefit shall begin to accrue the day following the last day for which the employee is paid sick leave or annual leave, but ~~in no event~~ not earlier than 60 days ~~prior to~~ before the date the application is filed.

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



Subd. 4. **MEDICAL EVIDENCE.** An applicant shall provide medical evidence to support an application for disability benefits. The director shall have the employee examined by at least one additional licensed physician designated by the medical advisor. The physicians shall make written reports to the director concerning the employee's disability, including medical opinions as to whether the employee is disabled within the meaning of this section. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability ~~which~~ that will prevent further service to the employer, and as a consequence the employee is not entitled to compensation from the employer.

If ~~upon the consideration of~~ on ~~considering~~ the ~~physicians'~~ physicians' reports of the ~~physicians and such~~ any other evidence as ~~may have been~~ supplied by the employee or others, the medical advisor finds the employee disabled within the meaning of this section, the advisor shall make appropriate recommendation to the director in writing, together with the date from which the employee has been disabled; ~~and~~. The director shall ~~thereupon~~ then determine the propriety of authorizing payment of a disability benefit as provided in this section.

Unless payment of a disability benefit has terminated because the employee is no longer disabled, or because the employee has reached age 62, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued during the employee's lifetime. ~~During the time that~~ While disability benefits are paid, the director ~~shall have~~ has the right at reasonable times to require the disabled employee to submit proof of the continuance of the disability claimed. If any examination indicates to the medical advisor that the employee is no longer disabled, the disability payment ~~shall~~ must be discontinued upon reinstatement to state service or within 60 days of ~~such~~ the finding, whichever is sooner.

Subd. 5. **RETIREMENT STATUS AT AGE 65.** The disability benefit paid to a disabled correctional employee ~~hereunder~~ under this section shall terminate at the end of the month in which the employee reaches age 62. If the disabled correctional employee is still disabled when the employee reaches age 62, the employee shall be deemed to be a retired employee ~~and~~. If the employee had elected an optional annuity ~~pursuant to~~ under subdivision 1a, ~~the employee shall~~ receive an annuity in accordance with the terms of the optional annuity previously elected; ~~or~~. If the employee had not elected an optional annuity ~~pursuant to~~ under subdivision 1a, ~~the employee~~ may then either elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or elect to receive an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. Election of an optional annuity ~~shall~~ must be made ~~prior to attaining~~ before reaching age of 62 years. The reduction for retirement ~~prior to~~ before age 65 as provided in section 352.116, subdivision 1, ~~shall~~ does not be ~~applicable~~ apply. The savings clause provision of section 352.93, subdivision 3, ~~shall~~ be ~~applicable~~ applies. If an optional annuity is elected, the optional annuity shall begin to accrue on the first of the month following the month in which the employee ~~attains the~~ reaches age of 62 years.

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

Subd. 6. If the employee is entitled to receive a disability benefit as provided in subdivision 1 or 2 and has credit for less covered correctional service than the length of service upon which the correctional disability benefit is based, and also has credit for regular plan service, the employee ~~shall be~~ is entitled to a disability benefit or deferred retirement annuity based on the regular plan service only for that service which when combined with the correctional service exceeds number of years on which the correctional disability benefit is based. The disabled employee who also has credit for regular plan service must in all respects qualify under ~~the provisions of section 352.113 to be entitled to receive~~ for a disability benefit based on the regular plan service, except that the service may be combined to satisfy length of service requirements. Any deferred annuity to which the employee may be is entitled based on regular plan service ~~shall~~ must be augmented as provided in section 352.72 while the employee is receiving a disability benefit under this section.

Subd. 7. **RESUMPTION OF EMPLOYMENT.** ~~Should~~ If the disabled employee ~~resume~~ resumes a gainful occupation from which earnings are less than the salary received at the date of disability or the salary currently paid for similar positions, or ~~should if~~ the employee be is entitled to receive workers' compensation benefits, the disability benefit ~~shall~~ must be continued in an amount which when added to ~~such~~ earnings and workers' compensation benefits does not exceed the salary received at the date of disability or the salary currently paid for similar positions, whichever is higher, ~~provided if~~ the disability benefit in ~~such that~~ case does not exceed the disability benefit originally authorized and in effect.

#### 352.951 APPLICABILITY OF GENERAL LAW.

Except as otherwise provided, ~~the provisions of~~ this chapter ~~shall apply~~ applies to covered correctional employees.

#### 352.96 DEFERRED COMPENSATION.

Subdivision 1. **WRITTEN AGREEMENT FOR DEFERMENT.** At the request of an officer or employee of the state ~~of Minnesota or any a~~ political subdivision ~~thereof, or an employee covered by any of the retirement funds enumerated~~ in section 356.20, subdivision 2, the appointing authority shall by payroll deduction defer the payment of part of the compensation of the officer or employee as provided in a written agreement between the officer or employee and the state ~~of Minnesota, the political subdivision, or other employing unit whose employees are covered by any of the public retirement funds enumerated in section 356.20, subdivision 2, in such a manner as will.~~ The payment must be deferred so as to qualify the deferred amount for benefits ~~afforded~~ under federal and state tax laws, rules, and rulings.

Subd. 2. **PURCHASE OF SHARES.** The amount of compensation so deferred may be used to purchase:

(a) (1) shares in the Minnesota supplemental investment fund established in section 11A.17;

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(b) (2) saving accounts in federally insured financial institutions;

(e) (3) life insurance contracts, fixed annuity and variable annuity contracts from companies ~~which~~ that are subject to regulation by the commissioner of commerce; or

(d) (4) ~~any a~~ combination of (a) (1), (b) (2), or (e) ~~above~~ (3), as specified by the participant.

The shares accounts or contracts ~~so~~ purchased shall stand in the name of the state of ~~Minnesota~~ or other employing unit, for the officer or employee whose deferred compensation purchased ~~said~~ the shares, until distributed to ~~said~~ the officer or employee in a manner agreed upon by the employee and the executive director of the Minnesota state retirement system, acting for the employer. ~~Nothing in~~ This subdivision shall be construed as to does not authorize an employer contribution; ~~nor shall~~. The state, ~~the~~ political subdivision, or other employing unit be is not responsible for any loss ~~which~~ that may result from investment of the deferred compensation.

Subd. 3. **EXECUTIVE DIRECTOR TO ADMINISTER SECTION.** ~~The provisions of~~ This section shall be administered by the executive director of the ~~Minnesota state retirement system pursuant to the provisions of~~ under subdivision 4. If the state board of investment so elects, it may solicit bids for options under subdivision 2, clauses (b) (2) and (e) (3). All contracts must be approved ~~prior to~~ before execution by the state board of investment. ~~All~~ Contracts shall must provide that all options in subdivision 2 shall must: be presented in an unbiased manner, ~~shall~~ be presented in a manner ~~so as to conform~~ conforming to applicable rules ~~promulgated~~ adopted by the executive director, ~~shall~~ be reported on a periodic basis to all employees participating in the deferred compensation program, and ~~shall~~ not be the subject of unreasonable solicitation of state employees to participate in the program. The contract may not call for any person to jeopardize the tax-deferred status of ~~moneys~~ money invested by state employees pursuant to under this section. All costs or fees in relation to the options provided under subdivision 2, clause (e) (3), ~~shall~~ must be paid by the underwriting companies ultimately selected by the state board of investment.

Subd. 4. **EXECUTIVE DIRECTOR TO ESTABLISH RULES.** The executive director of the ~~Minnesota state retirement system~~ shall establish rules and procedures to carry out the ~~provisions of~~ this section including allocation of administrative costs against the assets accumulated under this section. Funds to pay ~~such~~ these costs are ~~hereby~~ appropriated from the fund or account in which the assets accumulated under this section are placed. The rules established by the executive director ~~shall~~ must conform to federal and state tax laws, regulations, and rulings, and are not subject to the administrative procedure act. Rules adopted after July 1, 1977, relating to the options provided under subdivision 2, clauses (b) (2) and (e) (3), must be approved by the state board of investment. A state employee ~~shall~~ must not be ~~permitted to~~ make payments under a plan until the plan or applicable component ~~thereof~~ of the plan has been approved as ~~to its~~ for tax-deferred status by the internal revenue service.

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

Subd. 5. **OTHER LAWS NOT APPLICABLE.** No provision of this chapter or other law specifically referring to this chapter is ~~applicable~~ applies to this section unless this section is specifically mentioned ~~therein~~.

**352.97 PRIOR DEFERRED COMPENSATION PLANS; CONSTRUCTION.**

Sections 352.96 and 352.97 ~~shall not be construed to do not~~ preempt, prohibit, ratify, or approve any other deferred compensation plan ~~which is established prior to before~~ or ~~which may be established subsequent to after~~ June 3, 1975.

**ARTICLE 7**

Section 1. Minnesota Statutes 1986, chapter 352B, is amended to read:

**352B.01 DEFINITIONS.**

Subdivision 1. **SCOPE.** ~~For the purposes of In~~ this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **MEMBER.** "Member" means:

(a) ~~all of the persons referred to and employed on and after July 1 June 30, 1943 pursuant to the provisions of under~~ Laws 1929, chapter 355, ~~and all acts amendatory thereof and supplementary thereto as amended or supplemented,~~ currently employed by the state, whose salaries or compensation is paid out of state funds of the state of Minnesota;

(b) ~~any a~~ conservation officer employed under the ~~provisions of~~ section 97A.201, currently employed by the state, whose salary or compensation is paid out of state funds of the state; and

(c) ~~any a~~ crime bureau officer who was employed by the crime bureau and was a member of the highway patrolmen's retirement fund on July 1, 1978, whether or not that person has the power of arrest by warrant after that date, or who is employed as police personnel, with powers of arrest by warrant; ~~pursuant to the provisions of under~~ section 299C.04, and who is currently employed by the state, and whose salary or compensation is paid out of state funds of the state.

Subd. 2a. **CETA MEMBERS.** ~~The term~~ "Member" ~~shall does~~ not include any person employed in subsidized on-the-job training, work experience, or public service employment as an enrollee under the federal Comprehensive Employment and Training Act ~~from and after~~ March 30, 1978, unless:

(a) the person has as of the later of March 30, 1978, or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity; ~~or~~

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(b) the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal Comprehensive Employment and Training Act; or

(c) the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution.

Subd. 3. **ALLOWABLE SERVICES.** "Allowable service" means:

(a) for ~~these~~ members defined in subdivision 2, clause (a), service for which payments have been made to the state patrol retirement fund, and

(b) for ~~these~~ members defined in subdivision 2, clauses (b) and (c), service for which payments have been made to the state patrol retirement fund, service for which payments were made to the state police officers retirement fund after June 30, 1961, and all prior service which was credited to ~~such~~ a member for service on or before June 30, 1961; ~~provided that,~~

After a member identified in clause (b) of this subdivision reaches the age of 60, allowable service ~~thereafter shall~~ after that date must not be computed in determining the normal annuity unless the member was employed as a state police officer before July 1, 1961. If ~~such the~~ member was so employed before July 1, 1961, and reaches 60 years of age and has more than 30 years' allowable service at ~~such~~ that time, each year and completed month of allowable service acquired by ~~such the~~ member ~~shall must~~ be computed in determining the normal annuity until ~~such the~~ member reaches the age of 60. If ~~such the~~ member was ~~so~~ employed before July 1, 1961, and has less than 30 years of allowable service when the member reaches age 60, each year and completed month of allowable service acquired by ~~such the~~ member ~~shall must~~ be computed in determining the normal annuity not to exceed 30 years of ~~such~~ allowable service. The completed year members reach age 60 may be counted in full in determining allowable service. Allowable service also includes any period of absence from duty by a member who, by reason of injury incurred in the performance of duty, is temporarily disabled and for which disability the state is liable under the workers' compensation law, until the date authorized by the executive director for commencement of payment of a disability benefit or return to employment.

Subd. 4. **DEPARTMENT HEAD.** "Department head" means the head of any department, institution, or branch of the state service ~~which that~~ directly pays salaries from state funds to a member ~~and~~ who prepares, approves, and submits salary abstracts of employees to the commissioner of finance and state treasurer.

Subd. 6. **ACCUMULATED DEDUCTIONS.** "Accumulated deductions" means the total sums deducted from the salary of a member and the total amount of assessments paid by a member in ~~his~~ place of ~~such~~ deductions, and credited to the member's individual account, without interest.

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

Subd. 7. **FUND.** "Fund" means the state patrol retirement fund.

Subd. 9. **SURVIVING SPOUSE.** "Surviving spouse" means a member's or former member's legally married spouse ~~residing~~ who resided with the member or former member at the time of death and ~~who~~ was married to the member or former member, for a period of at least one year, during or ~~prior to~~ before the time of membership.

Subd. 10. **DEPENDENT CHILD.** "Dependent child" means ~~any~~ a natural or adopted unmarried child of a deceased member under the age of 18 years, including any child of the member conceived during the lifetime of the member and born after the death of the member.

### 352B.02 STATE PATROL RETIREMENT FUND.

Subdivision 1. **CONTRIBUTIONS; PAYMENTS.** ~~There is hereby established~~ A state patrol retirement fund; ~~the is established.~~ Its membership of ~~which shall consist~~ consists of all persons defined in section 352B.01, subdivision 2. Each member shall pay a sum equal to 8.5 percent of the member's salary. Member contribution amounts ~~shall~~ must be deducted each pay period by the department head, who shall ~~cause~~ have the total amount of the deductions ~~to be~~ paid to the state treasurer, and ~~shall~~ cause have a detailed report of all deductions ~~to be~~ made each pay period to the executive director of the Minnesota state retirement system. In addition ~~thereto,~~ there shall be paid out of money appropriated to the departments for this purpose, by the to member contributions, department heads; shall pay a sum equal to 18.9 percent of the salary upon which deductions were made. Department contributions must be paid out of money appropriated to departments for this purpose.

These amounts ~~shall~~ must be credited to the state patrol retirement fund. All money received ~~shall~~ must be deposited by the state treasurer in the state patrol retirement fund. ~~Out of~~ The fund ~~shall be paid~~ must be used to pay the administrative expenses of the retirement fund, and the benefits and annuities ~~as hereinafter provided in this chapter.~~ The legislative auditor shall audit the fund and the executive director shall procure an actuarial study of the fund in accordance with chapter 356. The cost of ~~which shall~~ the study must be borne by the fund.

### 352B.03 **OFFICERS, DUTIES.**

Subdivision 1. **OFFICERS.** The policymaking, management, and administrative functions governing the operation of the state patrol retirement fund ~~shall be~~ are vested in the board of directors and executive director of the Minnesota state retirement system with ~~such~~ duties, authority and responsibility as is provided in chapter 352.

Subd. 2. **DUTIES OF TREASURER.** The state treasurer ~~shall be~~ is ex officio treasurer of the state patrol retirement fund ~~and.~~ The treasurer's general bond to the state ~~shall cover~~ covers all liability for actions as treasurer of the fund.

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

All ~~moneys~~ money of the fund received by the treasurer ~~pursuant to~~ under this chapter; ~~shall must~~ be set aside in the state treasury and credited to the state patrol retirement fund. The treasurer shall transmit, monthly, to the director, a detailed statement showing all credits to and disbursements from ~~said~~ the fund. The treasurer shall disburse ~~moneys~~ money from ~~such~~ the fund only on warrants issued by the commissioner of finance upon vouchers signed by the director.

#### 352B.05 INVESTMENTS.

The state board of investment is hereby authorized to may invest and reinvest ~~such any~~ portions of the state patrol retirement fund as ~~in the judgment of the executive director of the Minnesota state retirement system~~ are not needed for immediate purposes; The executive director shall determine what funds may be invested. Money may be invested in such securities as are duly authorized or as legal investments for the Minnesota state retirement system; ~~and shall have authority to.~~ The state board may sell, convey, and exchange ~~such~~ securities and invest and reinvest the funds when it deems it desirable to do so; ~~and.~~ The state board shall sell securities upon request from the executive director when the executive director determines funds are needed for its purposes. ~~All of the~~ Provisions regarding accounting procedures and restrictions and conditions for the purchase and sale of securities for the Minnesota state retirement system ~~shall~~ apply to the accounting, purchase, and sale of securities for the state patrol retirement fund.

#### 352B.07 ACTIONS BY OR AGAINST.

The board may sue or be sued in the name of the board of directors of the state retirement system; ~~and.~~ In all actions brought by or against it, the board shall be represented by the attorney general ~~who.~~ The attorney general shall also be the legal adviser for the board. Venue of all actions ~~shall be~~ is in the Ramsey county district court.

#### 352B.071 EXEMPTION FROM PROCESS.

None of the money, annuities, or other benefits provided for in this chapter ~~shall be~~ is assignable either in law or in equity or ~~be~~ subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.611.

#### 352B.08 BENEFITS.

Subdivision 1. **WHO IS ELIGIBLE; WHEN TO APPLY; ACCRUAL.** Every member who is credited with ten or more years of allowable service ~~shall be~~ is entitled to separate from ~~such~~ state service and upon ~~attaining the age of becoming~~ 55 years old, ~~shall be~~ is entitled to receive a life annuity, upon separation from state service. Members shall ~~make application~~ apply for an annuity in a form and manner prescribed by the executive director. No application may be made more than 60 days ~~prior to~~ before the date the member is eligible to retire by reason of both age and service requirements. An annuity

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shall ~~begin~~ begins to accrue no earlier than 90 days ~~prior to~~ before the date the application is filed with the executive director.

Subd. 2. **AMOUNT OF PAYMENTS.** The annuity shall must be paid in monthly installments equal to ~~that portion of~~ the average monthly salary of the member multiplied by 2-1/2 percent for each year and pro rata for completed months of service not exceeding 25 years and two percent for each year and pro rata for completed months of service in excess of 25 years. "Average monthly salary" shall ~~mean~~ means the average of the monthly salaries for the five high years of service as a member. The monthly salary for the period ~~prior to~~ before July 2, 1969 shall be deemed to be \$600. ~~The term~~ "Average monthly salary" shall does not include any amounts of severance pay or any reduced salary paid during the period the person is entitled to workers' compensation benefit payments ~~from the workers' compensation court of appeals~~ for temporary disability. In lieu of the single life annuity ~~herein provided~~, the member or former member with ten years or more of service may elect a joint and survivor annuity, payable to a designated beneficiary for life, adjusted to the actuarial equivalent value of the single life annuity. The joint and survivor annuity elected by a member may also provide that the elected annuity be reinstated to the single life annuity ~~herein provided~~, if after drawing the elected joint and survivor annuity, the designated beneficiary dies ~~prior to the death of~~ before the member. This reinstatement shall is not be retroactive but shall be in takes effect for the first full month ~~subsequent to~~ after the death of the designated beneficiary. This additional joint and survivor option with reinstatement clause shall must be adjusted to the actuarial equivalent value of a regular single life annuity.

#### 352B.10 DISABILITY BENEFITS.

(1) Subdivision 1. INJURIES, PAYMENT AMOUNTS. Any member less than 55 years ~~of age old~~, who shall ~~become~~ becomes disabled and physically or mentally unfit to perform duties as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, ~~which shall render the member physically or mentally unable to perform duties~~, shall receive disability benefits during the period of such disability while disabled. The benefits shall be paid in monthly installments equal to ~~that portion of the member's~~ average monthly salary ~~of the member~~ multiplied ~~(a) (1)~~ by 50 percent and, ~~(b) (2)~~ by an additional 2-1/2 percent for each year and pro rata for completed months of service in excess of 20 years, but not exceeding 25 years and two percent for each year and pro rata for completed months of service in excess of 25 years.

(2) Subd. 2. UNDER 55; DISABLED WHILE NOT ON DUTY. ~~Any~~ If a member ~~who~~ terminates employment after ~~not less than at least~~ five years of service, before reaching the age of 55, ~~terminates employment~~ because of sickness or injury occurring while not on duty and not engaged in state work entitling the member to membership, and the termination is necessary because the member ~~is unable to~~ cannot perform duties shall be, the member is entitled to receive a disability benefit. The benefit shall must be in the same amount and

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computed in the same ~~manner~~ way as if the member were 55 years of age ~~old~~ at the date of disability and the annuity were paid ~~pursuant to~~ under section 352B.08. ~~Should~~ If disability under this clause ~~occur~~ occurs after five but ~~in less than~~ before ten years service, the disability benefit ~~shall~~ must be computed as though the member had ten years service.

(3) Subd. 3. ANNUAL AND SICK LEAVE; WORK AT LOWER PAY. No member shall receive any disability benefit payment when the member has unused annual leave or sick leave or under any other circumstances, when during the period of disability there has been no impairment of salary. ~~Should such the member or former member resume a gainful occupation work and have earnings earn~~ less than the salary received at the date of disability or the salary currently paid for similar positions, the disability benefit shall must be continued in an amount which when added to earnings does not exceed the salary received at the date of disability or the salary currently paid for similar positions, whichever is higher; provided. The disability benefit ~~in such case does~~ must not exceed the disability benefit originally allowed.

(4) Subd. 4. PROOF OF DISABILITY. No disability benefit payment shall be made except upon adequate proof furnished to the director of the existence of ~~such the~~ disability; and during the time when any such. While disability benefits are being paid, the director ~~shall have~~ has the right, at reasonable times, to require the disabled former member to submit proof of the continuance of the disability claimed.

(5) Subd. 5. OPTIONAL ANNUITY. A disabled member not eligible for survivorship coverage ~~pursuant to~~ under section 352B.11, subdivision 2, may ~~elect~~ choose the normal disability benefit or an optional annuity as provided in section 352B.08, subdivision 2. The ~~election~~ choice of an optional annuity ~~shall~~ must be made ~~prior to~~ before commencement of payment of the disability benefit ~~and shall be.~~ It is effective 30 days after receipt of this election choice or the date on which the disability benefit begins to accrue, whichever occurs is later. Upon becoming effective, the optional annuity shall begin begins to accrue on the same date as provided for the disability benefit.

#### 352B.101 APPLICATION FOR DISABILITY BENEFIT.

A member ~~making claim for~~ claiming a disability benefit ~~shall~~ must file a written application ~~therefor~~ for benefits in the office of the system in a form and manner prescribed by the executive director. The member shall provide medical evidence to support the application. The benefit ~~shall begin~~ begins to accrue the day following the ~~commencement~~ start of disability or the day following the last day for which the member was paid, whichever is later, but ~~in no event~~ not earlier than 90 days ~~prior to~~ before the date the application is filed with the executive director.

#### 352B.105 TERMINATION OF DISABILITY BENEFITS.

All Disability benefits payable under section 352B.10 shall terminate at the

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end of the month the beneficiary becomes 55 years of age old. If the beneficiary is still disabled when the beneficiary ~~attains the age of~~ becomes 55 years old, the beneficiary shall be deemed to be a retired member and, if the beneficiary had ~~elected~~ chosen an optional annuity ~~pursuant to under~~ section 352B.10, ~~clause (6) subdivision 5~~, shall receive an annuity in accordance with the terms of the optional annuity previously ~~elected, or, chosen~~. If the beneficiary had not ~~elected chosen~~ an optional annuity ~~pursuant to under~~ section 352B.10, ~~clause (6) subdivision 5~~, the beneficiary may then elect choose to receive either a normal retirement annuity computed ~~pursuant to under~~ section 352B.08, subdivision 1, or an optional annuity as provided in section 352B.08, subdivision 2. ~~Election of~~ An optional annuity ~~shall must~~ be made ~~prior to attaining the age of~~ chosen before the beneficiary becomes 55 years old. If an optional annuity is ~~elected chosen~~, the optional annuity shall begin to accrue the first of the month following the month in which the beneficiary ~~attains the age of~~ becomes 55 years old.

### 352B.11 RETIREES.

Subdivision 1. **REFUND OF PAYMENTS.** ~~Should any A~~ member who has not received other benefits under this chapter ~~become is~~ entitled to a refund of payments made by salary deduction, plus interest, if the member is separated, either voluntarily or involuntarily, from state service that entitled the member to membership; ~~the member, or,~~ In the event of the member's death, the member's estate; ~~shall be is~~ entitled to receive a the refund of all payments which have been made by salary deductions plus interest at. Interest must be computed at the rate of five percent per annum a year, compounded annually upon application. To receive a refund, the member must apply on a form prescribed by the executive director.

Subd. 2. **DEATH; PAYMENT TO SPOUSE AND CHILDREN.** ~~In the event any~~ If a member serving actively as a member, a member receiving the disability benefit provided by section 352B.10, ~~clause (4) subdivision 1~~, or a former member receiving a disability benefit as provided by section 352B.10, ~~clause (3) subdivision 3~~, dies from any cause, the surviving spouse and dependent ~~child or dependent children shall be~~ are entitled to benefit payments as follows:

(a) A member with at least ten years of allowable service or a former member with at least 20 years of allowable service is deemed to have elected a 100 percent joint and survivor annuity payable to a surviving spouse only on or after the date the member or former member ~~attained~~ became or would have ~~attained the age of~~ become 55.

(b) The surviving spouse of a member who had credit for less than ten years of service shall receive, for life, a monthly annuity equal to 20 percent of that ~~portion part~~ of the average monthly salary of the member from which deductions were made for retirement. If the surviving spouse remarries, the annuity shall cease as of the date of the remarriage.

(c) The surviving spouse of a member who had credit for at least ten years

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

of service and who ~~dies~~ died after attaining 55 years of age, may elect to receive a 100 percent joint and survivor annuity, for life, notwithstanding a subsequent remarriage, in lieu of the annuity prescribed in ~~clause~~ paragraph (b).

(d) The surviving spouse of any member who had credit for ten years or more and who was not 55 years of age at death, shall receive the benefit equal to 20 percent of the average monthly salary as described in clause (b) until the deceased member would have reached the age of 55 years, and beginning the first of the month following that date, may elect to receive the 100 percent joint and survivor annuity. If the surviving spouse remarries ~~prior to~~ before the deceased member's 55th birthdate, all benefits or annuities shall cease as of the date of remarriage. Remarriage ~~subsequent to~~ after the deceased member's 55th birthday shall not affect the payment of the benefit.

(e) Each dependent child shall receive a monthly annuity equal to ten percent of that ~~portion~~ part of the average monthly salary of the former member from which deductions were made for retirement. A dependent child over ~~the age of 18 years and under the age of 22 years~~ of age also may receive the monthly benefit provided ~~herein~~ in this section, if the child is continuously attending an accredited school as a full time student during the normal school year as determined by the director. If the child does not continuously attend school but separates from full-time attendance during any ~~portion~~ part of a school year, the annuity shall cease at the end of the month of separation. In addition, a payment of \$20 per month shall be prorated equally to surviving dependent children when the former member is survived by one or more dependent children. Payments for the benefit of any qualified dependent child ~~shall~~ must be made to the surviving spouse, or if there ~~be~~ is none, to the legal guardian of the child. The maximum monthly benefit ~~shall~~ must not exceed 40 percent of the average monthly salary for any number of children.

(f) If the member ~~shall die~~ dies under circumstances ~~which that~~ entitle the surviving spouse and dependent children to receive benefits under the workers' compensation law, ~~amounts equal to~~ the workers' compensation benefits received by them ~~shall~~ must not be deducted from the benefits payable ~~pursuant to~~ under this section.

(g) The surviving spouse of a deceased former member who had credit for ten or more years of allowable service, but ~~excluding~~ not the spouse of a former member receiving a disability benefit under ~~the provisions of~~ section 352B.10, ~~clause (3) subdivision 3,~~ shall be is entitled to receive the 100 percent joint and survivor annuity at ~~such the time as~~ the deceased member would have reached the age of 55 years, ~~provided if~~ the surviving spouse has not remarried ~~prior to~~ before that date. ~~In the event of the death of~~ If a former member ~~dies~~ who does not qualify for other benefits under this chapter, the surviving spouse or, if none, the children or heirs ~~shall be~~ are entitled to ~~receive~~ a refund of the accumulated deductions left in the fund plus interest at the rate of five percent per ~~annum~~ year compounded annually.

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

Subd. 2a. **APPLICATIONS FOR SURVIVOR BENEFITS.** An application for benefits under this section ~~shall~~ must be filed in the office of the system in a form and manner prescribed by the executive director. The benefit shall begin to accrue the day following the date of death but shall ~~in no event~~ not be retroactive for more than six months ~~prior to~~ before the date the application is filed.

Subd. 3. ~~REFUNDMENT~~ REFUND; **EFFECT.** When any member or former member accepts a ~~refundment~~ refund, all existing service credits and all rights and benefits to which the member or former member was entitled ~~prior to~~ the before acceptance of such ~~refundment~~ the refund terminate.

Subd. 4. **RE-ENTRY INTO STATE SERVICE.** ~~Should any~~ When a former member, who has become separated from state service that entitled the member to membership and has received a refund of retirement payments, ~~re-enter~~ re-enters the state service in a position that entitles the member to membership, that member shall receive credit for the period of prior allowable state service ~~provided if~~ provided if the member repays into the fund the amount of the refund, plus interest ~~thereon~~ on it at the rate of five percent per ~~annum~~ year, at any time ~~prior to~~ before subsequent retirement. Repayment may be made in installments or in a lump sum.

#### 352B.131 **PRIOR OPTIONS EXERCISED.**

~~Any A~~ A state police officer, as defined in Minnesota Statutes 1969, section 352A.01, subdivision 2, who exercised the options provided ~~for~~ in Minnesota Statutes 1969, sections 352A.11 and 352A.12, and, ~~who~~ did not revoke ~~such~~ the election ~~pursuant to~~ under Minnesota Statutes 1969, section 352A.11, ~~shall is~~ not be entitled to any annuities or other benefits under this chapter. ~~If such~~ the state police officer remains in state service as a state police officer, payments to the state patrol retirement fund shall be made ~~in the manner as~~ as provided in section 352B.02, and the department head shall make the payments to the state patrol retirement fund as ~~therein~~ provided required.

#### 352B.14 **LAW GOVERNING BENEFITS.**

Subdivision 1. **RETIREMENT.** Except as provided in subdivision 4, ~~every~~ a member who retires and is entitled to ~~any~~ an annuity shall receive the retirement annuity computed on the basis of the law in effect at the date of retirement.

Subd. 2. **LEAVING STATE SERVICE.** Except as provided in subdivision 4, ~~every~~ a member who terminates state service and is entitled to a retirement annuity shall receive ~~such~~ an annuity computed on the basis of the law in effect on the date state service terminated.

Subd. 3. **DEATH.** Except as provided in subdivision 4, every surviving spouse or dependent child of a deceased former member entitled to an annuity or benefit shall receive ~~such~~ an annuity or benefit computed on the basis of the law in effect on the date ~~said~~ the member or former member died.

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

Subd. 4. **RETIREEES UNDER OLD LAW.** Any A member defined in section 352B.01, subdivision 2, clause (a) who has retired and began collecting a retirement annuity ~~prior to the effective date of Laws 1961, chapter 493~~ before April 21, 1961, or any surviving spouse or child who began collecting an annuity or benefit ~~prior to the effective date of Laws 1961, chapter 493~~ before April 21, 1961, shall continue to receive ~~such an~~ an annuity or benefit in the amount and subject to the conditions specified in the law ~~prior to the effective date of Laws 1961, chapter 493~~ before April 21, 1961.

Subd. 5. **RETROACTIVE CHANGE.** Notwithstanding the ~~provisions of~~ subdivisions 1 to 4 ~~hereof~~, the retirement annuities or benefits provided for highway patrol officers under Minnesota Statutes 1961, sections 172.01 to 172.11, ~~and~~ as in effect on April 21, 1961, ~~shall~~ also apply to annuitants who retired and to those entitled to survivors benefits, under ~~said~~ those sections, on or ~~prior to~~ before April 21, 1961. Any additional annuities or benefits provided for by this subdivision shall be available only after July 1, 1965.

### 352B.25 CONTINUING APPROPRIATION; PAYMENT OF PENSION FUNDS BY INDIVIDUALS.

The state patrol retirement fund and the participation in the Minnesota postretirement investment fund ~~shall~~ must be disbursed only for the purposes ~~herein~~ provided in this chapter. The expenses of the system and any benefits or annuities ~~herein~~ provided in this chapter, other than benefits payable from the Minnesota postretirement investment fund, ~~shall~~ must be paid from the state patrol retirement fund. The amounts necessary to make the payments from the state patrol retirement fund and the participation in the Minnesota postretirement investment fund are annually appropriated from those funds for those purposes.

### 352B.26 PARTICIPATION IN MINNESOTA POSTRETIREMENT INVESTMENT FUND.

Subdivision 1. **AUTHORIZATION.** The state patrol retirement fund shall participate in the Minnesota postretirement investment fund. ~~In that fund there shall be deposited~~ Assets as required by this section ~~and from which fund~~ must be deposited in the fund. Amounts shall be withdrawn ~~from the fund~~ only ~~for the purpose of paying to pay~~ annuities as ~~herein~~ provided and. The money is annually ~~and from time to time~~ appropriated for this purpose.

Subd. 2. **ADJUSTABLE FIXED BENEFIT ANNUITY.** "Adjustable fixed benefit annuity" means the payments made from the participation in the fund to an annuitant, including a joint and survivor annuitant and qualified recipients of surviving spouse benefits, after retirement in accordance with the ~~provisions~~ of this section. It also means that the payments made to ~~such these~~ persons shall never be an amount less than the amount determined on or before June 30, 1969, or on retirement, whichever is later.

### Subd. 3. VALUATION OF ASSETS; ADJUSTMENT OF BENE-

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

(a) For ~~these~~ former members ~~commencing~~ beginning to receive annuities and qualified recipients of joint and survivor annuities and surviving spouse benefits, the required reserves ~~shall~~ must be determined in accordance with the appropriate mortality table, calculated with an interest assumption set at the interest rate specified in section 356.215, subdivision 4d, ~~and~~. Assets representing the required reserves for these annuities ~~shall~~ must be transferred to the Minnesota postretirement investment fund ~~in accordance with procedures~~ as specified in section 11A.18.

~~(2)~~ (b) Annuity payments ~~shall~~ must be adjusted in accordance with the ~~provisions~~ of section 11A.18.

~~(3)~~ (c) Notwithstanding section 356.18, increases in annuity payments ~~pursuant to~~ under this section ~~shall~~ must be made automatically unless written notice is filed by the annuitant with the executive director of the Minnesota state retirement system requesting that the increase ~~not~~ be made.

#### 352B.261 RETIREMENT BENEFIT INCREASE.

The benefits payable from the Minnesota postretirement investment fund authorized and in effect on May 31, 1973, shall be increased in the same ratio that the actuarially computed reserve for ~~such~~ benefits determined by using an interest assumption of 3-1/2 percent bears to the actuarially computed reserve for ~~such~~ benefits determined by using an interest assumption of five percent. The reserves upon which ~~such~~ the increase ~~shall be~~ is based shall be the actuarially determined reserve for benefits in effect on June 30, 1972, in accordance with the mortality assumptions then in effect and at interest assumptions of 3-1/2 percent and five percent. ~~Such~~ The ratio of increase computed to the last full one 1/100 of one percent ~~shall~~ must be applied to benefits in effect on May 31, 1973 and shall begin to accrue July 1, 1973. Notwithstanding section 356.18, increases in benefit payments ~~pursuant to~~ under this section will be made automatically unless the intended recipient ~~files~~ files written notice with the state patrol retirement association requesting that the increase ~~shall~~ not be made.

#### 352B.262 DISABILITY BENEFIT INCREASE.

~~The~~ Disability benefits authorized and in effect on May 31, 1973, ~~shall be~~ are increased by 25 percent. The increase ~~shall apply~~ applies to the accrual of ~~such~~ benefits commencing January 1, 1974.

#### 352B.265 PRE-1973 INCREASE.

Total benefits payable to a retiree or surviving spouse whose benefits were computed under the law in effect ~~prior to~~ before June 1, 1973, ~~shall be~~ are increased by six percent on July 1, 1982 and on July 1 of each year thereafter. Funds sufficient to pay the increases provided by this section are ~~hereby~~ appropriated annually to the executive director from the state patrol retirement fund.

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

**352B.27 SAVINGS CLAUSE.**

Subdivision 1. **EARLIER RETIREMENT LAWS.** The rights, privileges, annuities, and benefits, whether presently accrued or to accrue in the future, extended to those persons designated or described in Laws 1967, chapter 244, section 4; Laws 1969, chapter 693, sections 15 and 17; Laws 1971, chapter 278, section 3; and Laws 1971, chapter 543, section 1 ~~shall continue in full force and effect as provided therein, notwithstanding any provisions of law to the contrary.~~

Subd. 2. **BENEFITS TO CONTINUE.** Except as otherwise specifically provided in this chapter, all persons who on May 8, 1973 are receiving any benefit, annuity or payment from the highway patrol officers' retirement fund shall, after May 8, 1973, receive the same benefit, annuity or payment from ~~said~~ the fund.

**352B.28 SURVIVING SPOUSE BENEFITS.**

Subdivision 1. **BASIC ANNUITY.** Upon the death of any highway patrol officer who retired or separated from state service ~~prior to~~ before July 1, 1965, the surviving spouse, if legally married to the patrol officer during service as a patrol officer and residing with the officer at the time of death, shall receive for life an annuity of \$125 per month.

Subd. 2. **INCREASE; HIGHWAY PATROL.** The annuity of a surviving spouse of a member of the highway patrol who retired or separated from active service ~~prior to~~ before July 1, 1965, and the surviving spouse of a highway patrol officer who dies in service ~~prior to~~ before the effective date of Laws 1969, chapter 693, and who on May 25, 1973 is receiving an annuity of less than \$125 per month, shall thereafter be increased to \$125 per month.

Subd. 3. **INCREASE; POLICE OFFICERS FUND.** The annuity of a surviving spouse currently receiving an annuity by way of the state police officers retirement fund where there was no option of eligibility, shall on May 25, 1973 be increased to \$125 per month.

Subd. 4. **REMARRIAGE.** The annuity of any surviving spouse granted or supplemented by this section shall cease ~~in the event of remarriage of~~ if the recipient remarries.

**352B.29 HIGHWAY PATROLMEN'S RETIREMENT ASSOCIATION; TRANSFER OF FUNCTIONS.**

Notwithstanding other provisions of chapters 352 and 352B ~~as amended~~, effective July 1, 1973, all powers, duties, responsibilities, books, papers and records of the highway patrolmen's retirement association and of the officers of the highway patrolmen's retirement association are ~~hereby~~ transferred to the Minnesota state retirement system. The officers of the highway patrolmen's retirement association as constituted under this chapter as amended are ~~hereby~~ abolished.

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

**352B.30 COVERAGE BY MORE THAN ONE RETIREMENT SYSTEM OR ASSOCIATION.**

Subdivision 1. **ENTITLEMENT TO ANNUITY.** Any person who has been an employee covered by the Minnesota state retirement system, or a member of the public employees retirement association including the public employees retirement association police and firefighters' fund, or the teachers retirement association, or the state patrol retirement fund, or any other public employee retirement system in the state of Minnesota having a like provision but excluding all other funds providing benefits for police or firefighters ~~shall be~~ is entitled when qualified to an annuity from each fund if total allowable service in all funds or in any two of these funds totals ten or more years; ~~provided.~~ No ~~portion part~~ of the allowable service upon which the retirement annuity from one fund is based ~~is~~ may again used in the computation for benefits from another fund ~~and provided further that.~~ The member ~~has~~ must not have taken a refund from any one of these funds since service entitling the member to coverage under the system or membership in any of the associations last terminated. The annuity from each fund ~~shall~~ must be determined by the appropriate ~~provisions of the law~~ except that the requirement that a person must have at least ten years allowable service in the respective system or association ~~shall~~ does not apply for the purposes of this section ~~provided~~ if the combined service in two or more of these funds equals ten or more years.

Subd. 2. **COMPUTATION OF DEFERRED ANNUITY.** Deferred annuities ~~shall~~ must be computed ~~in the manner provided by~~ according to this chapter ~~and acts amendatory thereof,~~ on the basis of allowable service ~~prior to~~ before termination of service and augmented as provided ~~herein~~ in this chapter. The required reserves applicable to a deferred annuity ~~shall~~ must be augmented by interest compounded annually from the first day of the month following the month in which the member terminated service, or July 1, 1971, whichever is later, to the first day of the month in which the annuity begins to accrue. The rates of interest used for this purpose shall be five percent per ~~annum~~ year compounded annually until January 1, 1981, and ~~thereafter~~ after that date three percent per ~~annum~~ year compounded annually. The mortality table and interest assumption used to compute ~~such~~ the annuity shall be those in effect ~~at the time when~~ the member files application for annuity.

Subd. 3. **REFUND REPAYMENT.** ~~Any~~ A person who has received a refund from the state patrol retirement fund who is a member of a public retirement system included in subdivision 1, may repay ~~such~~ the refund with interest to the state patrol retirement fund as provided in section 352B.11, subdivision 4.

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



## ARTICLE 8

## BOUNDARIES, POWERS, CONTRACTS, PROPERTY

Section 1. Minnesota Statutes 1986, chapter 365, is amended to read:

**365.01 1906 BOUNDARIES REMAIN UNLESS CHANGED BY COUNTY.**

The A town's boundaries of towns shall remain as now established until otherwise provided by on March 1, 1906 remain its boundaries unless the county board pursuant to law changes them according to law.

**365.02 CORPORATE POWERS TOWN MAY SUE, OWN PROPERTY, MAKE CONTRACTS.**

Each A town is and shall be a body corporate, and empowered public corporation. A town may:

- (1) ~~To sue and be sued by~~ in its corporate name;
- (2) ~~To purchase buy,~~ take, and hold real and personal property for a public uses purpose, and convey and dispose of the same property;
- (3) ~~To make all contracts enter into any contract that is~~ necessary for the exercise of its corporate town to use any of its powers; and
- (4) ~~To make such orders for the disposition, regulation dispose of, control,~~ and use of its corporate town property as the inhabitants thereof may deem expedient as its residents consider expedient.

**365.025 CONTRACTS; TIME PAYMENTS; PETITION ON BIG BUYS.**

Subdivision 1. BOARD MAKES CONTRACTS. Notwithstanding any other law to the contrary, the a town board shall have power to make such contracts as may be deemed necessary or desirable to make effective may enter into any contract it considers necessary or desirable to use any town power possessed by the town.

Subd. 2. MAY BUY OVER FIVE YEARS. The town may purchase buy personal property through on a conditional sales contract and real property through on a contract for deed under which contracts the seller is confined to the remedy of recovery of the property in case of nonpayment of all or part of the purchase price, which shall be payable over a period of not to exceed five years. When the contract price of property to be purchased by contract for deed or conditional sales contract exceeds. The town must pay for the property within five years.

Subd. 3. SELLER'S REMEDY: RECOVER PROPERTY. The seller's only remedy for nonpayment on a contract entered into under subdivision 2 is recovery of the property.

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

Subd. 4. BIG DEALS BUYS: NOTICE, PETITION, ELECTION. Before buying anything under subdivision 2 that costs more than one percent of the assessed valuation of the town, the town may not enter into such a contract for at least ten days after publication must follow this subdivision.

The town must publish in the its official newspaper of a board the board's resolution determining to purchase pay for the property by such a contract; and, if before the end of that over time. Then a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is contract may be filed with the clerk; the town may not enter into such a contract until the proposition has been. The petition must be filed within ten days after the resolution is published. To require the election the petition must be signed by a number of voters equal to ten percent of the voters at the last regular town election. The contract then must be approved by a majority of the votes cast those voting on the question. The question may be voted on at a regular or special election.

365.03 LIMITATION OF ONLY POWERS: EXPRESS OR NECESSARILY IMPLIED.

No towns shall possess or exercise any corporate A town may use only the powers except such as are expressly given it by law, or are necessary for the town to the exercise of the powers so use a given power.

365.04 CONVEYANCES TO TOWNS PROPERTY TO OR FOR USE OF TOWN IS TOWN PROPERTY.

All Real and or personal property conveyed to any a town ; or to the inhabitants thereof, its residents or to any person for the use of the town; or its inhabitants; shall be deemed the residents is town property of such town and all such conveyances shall have the same force and. The conveyance has the same effect as if made directly to the town by name.

365.05 SALE OF REALTY DEED OF TOWN LAND; FORMALITIES; INTEREST GIVEN.

When any A deed conveying real estate belonging to the owned by a town is sold the conveyance thereof shall be executed must be signed by the chair of the town board in an official capacity, and attested by the clerk; and such conveyance, duly. The deed, witnessed and acknowledged, shall convey to must give the grantee therein named all of the right, title, and estate which the town then has town's interest in the real estate conveyed.

ROAD SIGNS

365.06 TOWN MUST PUT UP GUIDEPOSTS FOR TRAVELERS.

Every A town shall erect put up and maintain suitable guideposts and boards at such the places on the public roads therein as shall be in the town that are convenient for the direction of travelers.

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

## TOWN CHARGES

**365.07 TOWN CHARGES TO PAY OFFICERS AND EXPENSES; TO RAISE MONEY.**

The following shall be It is a town charges charge:

- (1) The compensation of to pay town officers for services rendered their towns performed for the town;
- (2) to pay contingent expenses necessarily incurred for the use and benefit of the town;
- (3) The to raise money authorized to be raised by the vote of the town meeting for general purposes; and
- (4) Every sum to raise money directed by law to be raised for any town purpose.

No tax for town purposes shall exceed the amount voted to be raised at the annual town meeting.

**365.08 TOWN CHARGES; DAMAGES CAUSED BY WORK ON SUPPOSED HIGHWAY DAMAGE TO PRIVATE ROAD IS A CHARGE IF VOTED.**

In all towns in this state where any road work has been performed, or may hereafter be performed, upon a supposed highway thereof, by order of the proper officers of such town, on the belief that the same is a lawful public highway, and where an action at law has been or may hereafter be commenced, in any court of competent jurisdiction, in which it is or may be determined that such supposed highway was not a legal highway at the time the work was performed, all necessary costs and expenses incurred by any defendant therein, and any damages that may have been allowed or shall be allowed in any such action because of such road work shall be a charge against such town in favor of the defendant and allowed and paid by such town the same as other claims If a court finds that a town's officers ordered work done on a private road believing that the road was public, the damage caused and necessary expenses and costs incurred in the suit are a claim against the town. Before such costs, expenses, and damages shall be the claim becomes a charge; and to be paid by the town, the same shall be payment must be authorized by vote of a majority of all legal voters electors present and voting in favor thereof at an annual or a special town meeting of such town; after. First, there must be due notice that the question will be submitted considered and voted upon on at the meeting.

**365.09 TOWN TAXES CHARGES PAID BY TAXES LEVIED UNDER CHAPTER 275.**

Taxes to raise money for defraying pay for town charges shall must be levied under chapter 275 on the town's taxable property in the town in the manner prescribed in chapter 275.

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

## TOWN MEETING POWERS

**365.10 TOWN MEETINGS, POWERS WHAT ELECTORS MAY DO AT ANNUAL TOWN MEETING.**

Subdivision 1. POWERS LISTED HERE. The electors of each a town have power, at their annual town meetings, may do what is in this section.

Subd. 1a. POUNDS, POUNDMASTERS. ~~(1) to determine~~ The electors may (1) decide the locations of pounds, and (2) set the number of poundmasters, and to (3) discontinue any such pounds; a pound.

Subd. 2. ELECT TOWN OFFICERS. ~~(2) to select such~~ The electors may elect town officers as are to be chosen;

Subd. 3. ANIMALS AT LARGE. ~~(3) to make lawful orders and bylaws as they deem proper for~~ The electors may make orders and bylaws on restraining horses, cattle, sheep, swine, and other domestic animals from going at large on the highways; provide for roads. They may also make orders and bylaws on the impounding those of domestic animals so going at large; and to fix penalties for violations of the orders or and bylaws;

Subd. 4. ROADS, BRIDGES, OTHER EXPENSES. ~~(4) to~~ The electors may vote money for the to repair and construction of build roads and bridges; and to. They may also vote such sums as much money as they deem consider expedient for the good of the town for other town expenses, including the construction building and maintenance of docks and breakwaters;

Subd. 5. ADJOINING TOWN'S ROADS. ~~(5) The electors may, when they deem it for the interest of the town to direct that a specified certain amount of the road tax be expended, under the direction of their town board, spent on the roads of an adjoining town;~~ The spending must be for the good of the town and under the control of the town board.

Subd. 6. BUILD TOWN BUILDING. ~~(6) to authorize~~ The electors may let the town board to purchase buy or build a town hall or other building for the use of the town; and to determine. The electors must decide the amount of money to be raised for that purpose; but, if. Once the town gets a site for a town hall is once obtained, it shall the site must not be changed for another site, except by a vote therefor designating choosing a new site by. To get a new site two-thirds of the votes cast at such election of the legal voters of the town; those voting on the question must vote for it.

Subd. 7. BUY TOWN CEMETERY. ~~(7) to authorize~~ The electors may let the town board, by vote; to purchase buy grounds for a town cemetery; and. The electors may limit the price to be paid; for the cemetery and to may vote a tax for the payment thereof; to pay for it.

Subd. 8. BUY, BEAUTIFY PARK. ~~(8) to authorize~~ The electors may let the

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town ~~board~~, either by itself or in conjunction with ~~one or more~~ other towns, to purchase buy grounds for a public park and to may limit the price to be paid therefor; to authorize for the grounds. The electors may let the town, alone or in conjunction with such the other town or towns, to care for, improve, and beautify such the parks; and to determine, The electors may decide, by ballot, the amount of money to be raised for that purpose; and to those purposes. The electors may vote a tax for the payment thereof; to pay for what they allow under this subdivision.

Subd. 9. COMMUNITY HALLS. ~~(9)~~ to The electors may vote money to aid in the construction of help build community halls; to be erected. The community halls may be built by farm bureaus, farmers clubs, or other like organizations;

Subd. 10. TAX FOR DUMP. ~~(10)~~ to The electors may vote a tax to purchase buy and maintain a public dumping ground; dump.

Subd. 11. ABANDONED TOWN ROADS. ~~(11)~~ to authorize The electors may let the town board, by resolution, to determine whether to open or maintain town roads or town cartways under the jurisdiction of the town board upon which no maintenance or construction has been conducted for 25 years or more. For purposes of this clause the provisions of subdivision, section 163.16 shall does not apply to town roads described in this clause subdivision. Nothing in This clause shall be construed to abridge subdivision does not limit the right of town voters or land owners to petition for the establishment of to establish a cartway as provided in under section 164.08;

Subd. 12. FUND TOWN CELEBRATION. ~~(12)~~ to authorize The electors may set an amount of money and let the town board to spend money in an amount as determined by the electors for the purpose of commemorating it to commemorate an event of historical significance to the town;

Subd. 13. CONTROL DOGS, CATS. ~~(13)~~ to authorize The electors may let the town board to provide; by pass an ordinance; for licensing dogs and cats and regulating the their presence or, keeping of dogs and cats and their, and running at large within in the town;

Subd. 14. HEALTH, SOCIAL, RECREATIONAL SERVICES. ~~(14)~~ to authorize The electors may let the town board to contract with nonprofit organizations for not more than \$5,000 per year of health, social, or and recreational services in an amount not to exceed a total of \$5,000 in any year when deemed. To do so, the town board must consider the services to be in the public interest and of benefit to good for the town;

Subd. 15. REFUSE, HOUSEHOLD WASTE. ~~(15)~~ to authorize The electors may let the town board to provide for the collection and disposal find a way to collect and get rid of household waste and other refuse;. The way must be consistent with other laws; and.

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

Subd. 16. CEMETERY PERPETUAL CARE. ~~(16) to authorize The electors may let the town board to establish set up a perpetual care program for the administration and maintenance of any to administer and maintain a cemetery located in the town. Before establishing a perpetual care program, The town board must make the determination that sufficient funds are first decide that it has enough money available from burial plot sales, gifts, and private assistance to administer and maintain the cemetery. Cemetery administration may include the sale of burial plots and the supervision of burials. The town may accept gifts of money and other assistance help from individuals to establish set up the perpetual care program.~~

#### ORDINANCES, BYLAWS

##### 365.11 BYLAWS TO BE POSTED NOTICE OF BYLAW REQUIRED; BINDS ALL IN TOWN.

~~No bylaw shall take effect A town bylaw is not effective until posted notice thereof has been of it is given. Thereafter it shall be The bylaw is then binding upon on all the inhabitants of the town; residents and upon on all persons coming within its limits others while in the town.~~

##### 365.125 ENACTMENT OF ORDINANCES ORDINANCE FORMALITIES; PUBLISH, POST, RECORD.

Subdivision 1. FORMALITIES; TITLE, STYLE. ~~Every An ordinance shall must be enacted by a majority vote of all the members of the town board unless a larger number is required by law. It shall An ordinance must be signed by the chair of the town board, and attested by the clerk, and. An ordinance must have a title and must begin with words like "The board of supervisors of the town of ..... ordains:".~~

Subd. 2. PUBLICATION. ~~An ordinance must be published once in a qualified newspaper having general circulation within in the town. If The whole ordinance must be published unless the town board determines decides that publication of the publishing its title and a summary of an ordinance would it clearly inform tells the public of the its intent and effect of the ordinance, the town board may by a. The text of the ordinance, if published, must be in body type no smaller than brevier or 8-point type as specified in section 331.07.~~

Subd. 3. IF SUMMARY PUBLISHED. ~~The town board must approve the words in the summary. The decision to publish only the title and a summary must be made by a two-thirds vote of its members, or a three-member board and a four-fifths vote in a town having of a five-member board direct that only the title of the ordinance and a summary be published with. A notice must be published with the summary. The notice must say that a printed copy of the whole ordinance is available for inspection by any person during the clerk's regular office hours of the town clerk and any other location which the town board designates at another named place. The publishing of the title and summary is legally the same as publishing the whole ordinance.~~

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

Subd. 4. POSTING. A copy of the entire text shall whole ordinance must be posted in the community library, if there is one, or if not, If there is no library, the whole ordinance must be posted in any other another public location which place that the town board designates. Before the publication of the title and summary, the town board shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. The publishing of the title and summary shall be deemed to fulfill all legal publication requirements as completely as if the entire ordinance had been published. The text of the ordinance shall be published in body type no smaller than brevier or eight-point type, as defined in section 331.07. Proof of the publication shall be attached to and filed with the ordinance. Every names.

Subd. 5. RECORDING. An ordinance shall must be recorded in the town's ordinance book within 20 days after publication of the ordinance, or its title and summary, is published. All ordinances shall be suitably entitled and shall be substantially in the style: "The Town Board of Supervisors of .... ordains:." Proof of publication must be attached to the recorded ordinance.

#### ANIMAL POUNDS

##### 365.13 POUNDS POUNDMASTER NEEDED IF ELECTORS WANT POUND.

When the A poundmaster must be chosen to run the pound if electors of any town determine at the an annual town meeting to maintain one or more pounds the same shall be under the control of such poundmasters as are chosen for that purpose decide to have a pound.

#### TOWN BUILDINGS

##### 365.14 BOARD TO TAX FOR, CONTRACT FOR, MANAGE TOWN BUILDINGS HALL.

When any town shall have authorized the purchase or building of a town hall or other building for its use and determined the amount of money to be raised for that purpose the A town board may levy a tax for the amount so authorized and make all necessary allowed by the town's electors to buy or build a building for the town's use. The town board may enter into the contracts for purchasing or building the same and shall have the control and management thereof that are necessary to buy or build the building. The town board shall manage the building.

#### POLICE, FIRE, WATER SERVICE

##### 365.15 FIRE AND ELECTORS TELL BOARD HOW MUCH FOR POLICE PROTECTION; ACQUISITION OF APPARATUS, FIRE.

The electors of each town shall have the power at any annual or special a town meeting to authorize may direct the town board to provide for police or

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fire protection or for police protection, or both, and for the purchase or acquisition of apparatus therefor, either by itself or jointly with any other town, city, or any number thereof, and for the maintenance and operation of such apparatus, and to determine the maximum amount of money to be raised in that year and each year thereafter for any or all of such purposes until changed in the same manner by the electors and get, operate, and keep up police and fire apparatus. The board may act jointly with home rule charter or statutory cities and other towns in getting the apparatus. The electors can also set the amount of money to be raised in one or more years for these purposes. The amount can be changed at a subsequent later meeting.

**365.16 TAX LEVY; CONTRACTS; CONTROL OF APPARATUS BOARD TO TAX FOR, GET, MANAGE POLICE, FIRE GEAR.**

When the electors of any town have authorized the providing of apparatus for fire protection or for police protection, or both, or the maintenance and operation of such apparatus or both, and determined the amount of money to be raised therefor, the A town board may annually levy a the tax for the amount so authorized or for such lesser amount as the board may determine to be it decides is necessary and make all for police and fire apparatus and to operate and keep up the apparatus. The tax must not be more than the amount that the electors allowed for the purpose. The board may enter into any contracts necessary for providing the same to get, operate, and keep up the apparatus and shall have the control and management of the apparatus so provided, subject to control and management jointly with other towns or cities as herein provided. If the apparatus is shared under section 365.17 with home rule charter or statutory cities or other towns, the control must be shared with them.

**365.17 ADJACENT TOWNS, JOINT APPARATUS JOINT FIRE EQUIPMENT WITH ADJACENT TOWNS.**

When the electors of two or more adjacent towns have authorized the providing of apparatus for fire protection and determined the amount of money to be raised in the respective towns for that purpose The town boards of such two or more adjacent towns may arrange for pooling pool the amounts raised by such the towns and for providing such apparatus and jointly get and for the maintaining of such keep up fire protection apparatus for the use of such the towns in common upon such. The town boards shall jointly agree on the terms and, conditions and subject to such rules and regulations as may be mutually agreed upon and, in such case, for their joint action. The immediate control and management of the apparatus may be entrusted given to a committee composed made up of the chair chairs of each of the town boards. The term of any such joint agreement may be any reasonable period must not exceeding run for more than ten years.

**365.18 NEARBY CITY, CONTRACTS BOARD LEVY FOR POLICE, FIRE GEAR AND PROTECTION.**

Subdivision 1. When the electors of any town have authorized the provid-

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ing of fire protection or police protection, or both, or apparatus therefor, and the maintenance and operation of such apparatus; determined the amount of money to be raised therefor; the A town board may annually levy a the tax for the amount so authorized or for such lesser amount as the board may determine to be necessary; and it decides is necessary for police and fire protection and apparatus, and to operate and keep up the apparatus. The tax must not be more than the amount that the electors allowed for the purpose.

### 365.181 CONTRACTED FIRE SERVICE; COST DATA; ASSESSMENTS.

Subdivision 1. FROM COUNTY, CITY, OR VOLUNTEERS. A town board may enter into a contract for fire protection and operation and upkeep of fire apparatus with the town's county in which the town is located or with any or a nearby home rule charter or statutory city; or with any. The town board may also enter into the same kind of contract with a volunteer fire department or association if the volunteer fire department or association is not established, by charter or ordinance as, an official part of a city government for the furnishing of such fire protection within the limits of the town and for the care, maintenance and operation of such apparatus; on such. The parties shall mutually agree on the terms and conditions as mutually may be agreed upon. The term of any such contract may be any reasonable period not exceeding of the contract but the contract must not run for more than ten years.

Subd. 2. PROVIDER COST DATA. In the event that no tax is levied or in the event that the proceeds of the tax levied pursuant to subdivision 1 for fire protection are insufficient to reimburse the town for the amount expended for fire protection service pursuant to a contract during any year; the town board may levy annually upon each parcel of real estate in the town which required fire services during the year an assessment for fire protection; not to exceed the actual cost of such service; but no such assessment shall be made except upon ten days mailed notice by the town board to the owners of the parcels proposed to be assessed; which notice shall indicate the time and place the town board will meet to consider the assessment. Determination of ownership shall be made on the basis of the records of the county auditor. Such assessment shall be a lien upon such parcel of real estate and shall be due and payable to the town treasurer 30 days after said levy. Any assessment which is not paid when due; shall be certified by the treasurer of the town; together with a description of the real estate affected; to the county auditor; who shall add the amount of the assessment plus a penalty of ten percent to the tax rolls of such parcel of such real estate and extend and collect such total amount of the assessment with other real estate taxes for the next subsequent year.

Subd. 3. Where a municipality A town that has contracted with entered into a contract or enters into contract negotiations is negotiating with a town to furnish municipality for fire services pursuant to under this section, it shall provide the town with such may ask the municipality for cost data relating to fire protection as requested. The town may also ask for a copy of each existing

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fire protection contract the municipality has with other political subdivisions shall be provided upon request. The municipality shall provide the requested data and contracts.

**Subd. 3. USER ASSESSMENTS; NOTICE; PROCEDURE.** If a tax is not levied under section 365.18 or if the tax does not raise enough to pay for a year's contracted fire service the town board may levy an assessment for fire service. The assessment must be levied on each real estate parcel that required fire service during the year. The assessment must not be more than the cost of service. The parcel owners must be given ten days' mailed notice of the time and place of the town board meeting that is called to consider the assessments. The county auditor's records must be used to determine ownership of the parcels.

**Subd. 4. LIEN, PENALTY.** The assessment is a lien on the assessed parcel and is due and payable to the town treasurer 30 days after the assessment levy. A parcel's assessment that is not paid when due must be certified by the town treasurer to the county auditor. The auditor shall add the assessment plus a ten percent penalty to the real estate taxes on the parcel for the next year.

**365.19 TAX LEVY, LIMIT RELATION OF LEVIES HERE TO FORESTRY ACT, LEVY.**

**Subdivision 1. NOT LIMITED BY FORESTRY LEVY.** Nothing in sections 365.15 to 365.18 shall be construed so as to modify, abridge, or repeal Laws 1925, Chapter 407. Any A levy hereunder shall be separate and distinct from, and under sections 365.15 to 365.18 is in addition to, the levy and the amount of tax authorized in any one year pursuant to under section 88.04.

**Subd. 2. FORESTRY ACT NOT AFFECTED.** Sections 365.15 to 365.18 do not affect Laws 1925, chapter 407, known in part as the forestry act and coded in Minnesota Statutes, chapters 88 and 89.

**365.20 MAY PROVIDE FIRE PROTECTION, POLICE, FIRE, PROTECTION, AND USE OF ROADS, STREETS, AND GROUNDS FOR WATER MAINS IN CERTAIN PLATTED TOWNS.**

**Subdivision 1. OPT AT ELECTION OR ANNUAL MEETING.** The electors of any town in which the assessed valuation of the platted lands thereon equals or exceeds If 50 percent or more of the total assessed valuation of all the lands of such towns, exclusive of mineral valuations, shall have power, at a special election called for that purpose or at the regular annual meeting, to authorize in a town is platted land, the electors may let the town board: do what is described in this section. Mineral valuation must be excluded in figuring the percentage. The electors must act at a special election called for the purpose or at the annual meeting.

**Subd. 2. FIRE PROTECTION AND EQUIPMENT.** (+) ~~To~~ The electors may let the town board provide for fire protection and apparatus therefor; for the town.

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Subd. 3. POLICE PROTECTION. ~~(2) To~~ The electors may let the town board provide for police protection;

Subd. 4. PUBLIC LAYOUT FOR WATERWORKS. ~~(3) To allow, permit, prohibit, and limit~~ The electors may let the town board regulate the use of its the town's roads, streets, and public grounds for water mains, with all and necessary pipe, hydrants, and other appliances and means; and.

Subd. 5. BUILD WATERWORKS; CONTROL SERVICE, FAIR RATES. ~~(4) To empower~~ The electors may let the town board to build and construct water mains, with all the and necessary pipe, hydrants, and other appliances for the purpose of providing to provide water for to the inhabitants thereof, upon such residents of the town. The town board may set the terms and conditions as may be imposed by such town board, and upon the condition that of the water service. The water rates charged to the inhabitants of such town residents and the public shall be must be just and reasonable and. The rates must not exceeding exceed a fair return upon on the fair value of the property used for such the purpose; for a period of not more than 20 years.

### 365.21 SPECIAL ELECTION FOR POLICE, FIRE, WATER.

Subdivision 1. BY BOARD OR PETITION. A special election of the electors of such town may be called; for the purpose of voting upon any of the propositions set forth in to vote on a question under section 365.20; by the town board; upon. The town board calls the election. It may call one on its own motion, or shall be called by the town board upon a petition of but it must call an election if 20 percent of the qualified electors of such the town, based upon petition for it. The percentage is of the number of such electors as shown by on the poll list of voters at the next preceding last election prior to the making of the petition.

Subd. 2. NOTICE. The clerk shall post notice of the election shall be given by posting notice thereof in three of the most public places in the town; specifying the propositions upon which. The notice shall list the questions the electors are to vote; as follows: on.

Subd. 3. QUESTIONS. A special election under this section may answer one or more of the questions in this subdivision.

~~(1) (a) Shall the town board be authorized allowed to provide for fire protection and apparatus therefor?;~~

~~(2) (b) Shall the town board be authorized allowed to provide for police protection?;~~

~~(3) (c) Shall the town board be authorized allowed to grant a franchise for waterworks for the purpose of supplying the inhabitants to supply the residents of the town and the public with water?;~~

~~Or as many of such propositions as are to be voted upon at such election.~~

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

**365.22 CONDUCT OF ELECTION; BALLOTS, VOTING, HOURS.**

Subdivision 1. LIKE REGULAR TOWN ELECTION. Every such A special election shall under section 365.21 must be conducted run in the same manner as way that elections by ballot at the regular town election are run.

Subd. 2. QUESTIONS, BALLOT DETAILS. The ~~propositions~~ questions to be voted ~~upon shall on~~ must be separately stated ~~upon on~~ the ballots, as specified ~~worded~~ in section 365.21 and ~~opposite~~. Two squares, one above the other, must be put just below each ~~proposition shall be placed two squares;~~ question with the words word "yes" beside the upper square and the word "no" set opposite each beside the lower square; as follows:

"Yes .....

No ....."

and each.

Subd. 3. VOTING. An elector shall must vote separately on each ~~proposition~~ by making a cross in the square indicating whether the elector desires to vote "yes" or "no" on the ~~proposition question for the elector's vote to be counted on that question.~~ To vote "yes" on a question, the elector shall mark an "X" in the square beside the word "yes" just below the question. To vote "no" on a question, the elector shall mark an "X" in the square beside the word "no" just below the question.

Subd. 4. HOURS. The polls ~~shall must~~ be open from 9:00 a.m. to 7:00 p.m.; and

Subd. 5. MUNICIPAL ELECTION LAW APPLIES. In all other ~~respects~~ matters the election ~~shall must~~ be ~~conducted run~~ and the votes canvassed as the way elections by ballot; as ~~provided in~~ are run under sections 205.01 to 205.17.

**365.23 POWERS TO BE EXERCISED ONLY AT TOWN MEETING FOR SECTION 365.20 SPENDING, PACTS, TAX.**

In case any of the powers set forth in After getting general authority to do something under section 365.20 shall be granted to any such town board by the electors in the manner aforesaid; the town, a town board shall not have any authority to must not spend money therefor or to, enter into any a contract, or levy any a tax for any such purposes unless the same be authorized at the annual that purpose without specific authority from a town meeting; except that when- ever the electors vote to authorize any town board to exercise any of such powers in any year after. The specific authority is to be given at the annual town meeting; a special town meeting may be called upon ten days notice; and such special town meeting shall have the same authority in respect to voting for these purposes as the electors at an annual town meeting if still possible in the year the general authority is voted in. Otherwise, a special meeting to decide whether to give the town board the specific authority may be called on ten days' notice.

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**365.24 ELECTION TO REVOKE POWERS GRANTED ELECTION MAY REVOKE EARLIER GRANT OF POWER.**

The electors of any such a town may, by an election called and held, as hereinbefore provided, revoke any authority of such town theretofore granted under section 365.20 given by vote of such electors, as aforesaid; and, in any such case, if such election results in a revocation of any of such powers, the town board shall no longer exercise the same them to the town board. The revocation must be made in an election held under section 365.21.

**365.243 COUNTY FIRE PROTECTION FOR SERVICE TO UNORGANIZED TOWNSHIPS TERRITORY.**

Subdivision 1. **PERMISSIVE.** In any A county of this state containing one or more unorganized townships the county board may provide fire protection for such to its unorganized township or townships territory and may levy taxes upon on the property in such the unorganized township or townships territory for such that purpose.

Subd. 2. **NO ELECTION NEEDED.** Under sections 365.15 to 365.18, and 365.20, a county board acts for its unorganized territory within its county and no. The county board does not need to get authority from the electors of such the territory to the county board is required; any act. An act of a county board in providing fire protection in and levying taxes therefor for that protection in unorganized territory is as valid to the same extent as a similar act of a town board of an organized township duly authorized by the acting on authority granted by its electors of the town.

**TOWN CEMETERIES**

**365.26 CEMETERIES LAND; BOARD CONTROL; SALE OR LEASE; CITY AID.**

Subdivision 1. **VOTE FOR LAND.** When authorized by a vote of its A town's electors any town may acquire by purchase, vote to let the town buy, condemn or receive a gift or condemnation of land or additional lands within its limits the town to be used as a cemetery.

Subd. 2. **BOARD MAY RUN, SPEND FOR.** The town board shall control, and may establish rules for, the cemetery and may expend spend town funds for the care, maintenance and operation of its money to run and keep up the cemetery. The town board may determine those eligible for burial in the cemetery and establish other policies for the cemetery. The town board shall have control and management of every such cemetery, and may lay the same out the cemetery into lots, streets, and walks, and cause order that plats and maps thereof to of the cemetery be made and filed in the office of the town clerk clerk's office.

Subd. 3. **WHOM TO BURY.** The town board may decide who may be buried in the cemetery.

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Subd. 4. SALE TO CITY, IF PART OF. If any such a town cemetery becomes separated from the town by being included in part of the territory of a statutory city thereafter organized from its territory, it, the cemetery may be sold and conveyed by the town board to such statutory the city.

Subd. 5. SALE OR LEASE TO CORPORATION. When authorized by a vote of its A town's electors at a town meeting may vote to let the town may sell or lease any part of such its cemetery to a charitable, religious, or cemetery corporation upon the terms and conditions expressed in such authorization, but, The vote must be taken at a town meeting. The terms and conditions of the sale or lease must be included in the voted authorization. The part so sold or leased shall must continue to be used for burial purposes burials.

Subd. 6. AID, BURIALS FROM CITY. Upon receipt of a resolution of the A town board requesting financial may adopt a resolution asking for aid for maintenance of a from a statutory city within the town's boundaries to maintain the town cemetery. The board shall send the resolution to the city. The statutory city council of any statutory city located within the boundaries of such town may, in its discretion, appropriate from moneys not required for other purposes and then pay to the town for maintenance of such town cemetery a sum from money not otherwise needed not to exceed more than \$500 per annum, provided that burial of the dead of the statutory city is permitted in such cemetery, and a year to maintain the cemetery. The town board is authorized to grant such permission on such terms and with such limitations as it shall from time to time prescribe must then allow burials of the city's dead. The board may set terms for, and limits on, the burials.

#### 365.27 SALE OF LOTS LIMITED; PROCEEDS WHERE MONEY GOES.

Subdivision 1. FOR ALLOWED BURIALS ONLY. Lots of such cemetery may be sold by the town A town's board may sell a lot in its cemetery for burial of only for the burial of those permitted by the board and, upon sale, shall to be buried there. The lots must be conveyed in like manner as its other real estate is conveyed.

Subd. 2. MONEY TO CEMETERY FUND. Proceeds of all sales shall Money from the sale of town cemetery lots must be paid into the town treasury, and shall constitute. The money makes up a fund to be used only in maintaining, improving, and ornamenting such to keep up, improve, and ornament the cemetery.

#### 365.28 PUBLIC BURIAL GROUNDS GROUND IS TOWN'S AFTER TEN YEARS.

When any A tract of land in a town, title to which is not vested in some cemetery association, becomes town property after it has been used as a public burial ground for ten years the title thereto shall be deemed vested in such town and the same shall be subject to the if the tract is not owned by a cemetery association. The town board shall control and management of the town

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board of such town in like manner the burial ground as it controls other town cemeteries.

**365.29 PERMANENT FUND FOR PART OF LOT PRICE GOES TO CEMETERY PURPOSES FUND.**

The A town's board of supervisors of any town in the state which has heretofore purchased land for, and which is now used, or may be hereafter purchased and used, as a cemetery therein, may require and provide that any part or portion of the price paid for lots therein shall constitute a lot in its cemetery goes into a permanent fund, which shall. The money in the fund must be deposited, as provided in under section 365.32; and that the Interest accruing thereon shall from the fund must be paid annually to the cemetery's directors of the cemetery to be by them expended in caring for and beautifying such. The directors shall spend the money to care for and beautify the lot. The amount spent on a lot must be in the same proportion which the amount set aside from the lot bears to that the part of the price put in the fund from the sale of that lot is of the total amount in the fund.

**365.30 SUPERVISORS TO FIX PRICE BOARD SETS LOT CARE SHARE, HOW INTEREST USED.**

The A town's board of supervisors is hereby given power and authority to fix and determine the amount of such may decide the share of its cemetery lot price of each such lot sold that shall be taken, held, and deposited, for the purpose of that is for caring for and beautifying the lot and the cemetery and to direct and require. The board may also require the cemetery directors of the cemetery to expend spend the interest on the same share as provided in set out in sections 365.29 to 365.36.

**365.31 GIFTS GIFT FOR CEMETERY OR LOT; USE INTEREST FOR CARE.**

The town A town's board of supervisors and the directors of its cemetery, and each thereof, are hereby authorized and empowered to receive, may accept, and deposit, as provided in sections 365.29 to 365.36, any donation or a gift of money made to such the cemetery fund so created and to provide and require. They may require that the interest therefrom shall from the deposit of the gift be used by the directors in the to care for and beautifying of such lot or beautify the cemetery or its lots in such cemetery, or in the care and beautifying of such cemetery, and may receive and accept gifts and donations for the care and beautifying of any particular lot or lots in such cemetery, and shall use the same and the interest thereon for the purpose specified by the donor. If a donor gives a gift for use of a specific lot, the board or the directors may accept the gift and then shall use it and interest on it on that lot.

**365.32 TO DEPOSIT MONEY WITH COUNTY TREASURER BOARD MAY HAVE LOT MONEY GO TO COUNTY TREASURER.**

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

The A town's board of supervisors is hereby authorized and empowered to may require the directors of any such cemetery its cemetery's directors to immediately deposit all such money in the county treasury of the county in which such town is located immediately after the sale and receipt by them of payment for any lot sold in such cemetery, or the receipt of any such money from the sale of a cemetery lot or from a gift or donation, and for the cemetery fund. The county treasurer of any such county is hereby authorized, empowered, and directed to receive the same and all such and shall immediately deposit it as provided in sections 365.29 to 365.36. These funds, and all thereof, as soon as received by such county treasurer, shall be deposited in a bank designated as a depository of county funds by the county board of such county the money in the county's depository as directed in section 365.33.

**365.33 INTEREST; USE HOW COUNTY TO TREAT TOWN CEMETERY MONEY.**

Subdivision 1. LIKE OTHER FUNDS. For the purpose of such deposit, Deposits into the fund so created shall set up under section 365.29 must be treated as the way other funds in the county treasury; except as herein otherwise provided; and draw no less are treated. The deposit must not earn a lower rate of interest than is paid on the county funds of the county deposited in the depository; provided that.

Subd. 2. TIME CERTIFICATES. The board of directors of the a cemetery association may require all or part of the funds money to be deposited on in time certificates in the depository. The certificates must be in the name of the county treasurer; and must be payable to the county treasurer or successors in office; and. The county treasurer shall secure on such time deposit get the highest rate of interest which that the depository will pay thereon and on the time certificates. The interest rate must not be less than the current rate paid on time certificates by such the depository; and for such principal and interest so deposited on time certificates. The county treasurer shall be liable in the same way and manner and to the same extent that the treasurer is liable upon official bond for moneys deposited on behalf of the county is just as liable on the county treasurer's bond for the principal and interest on the time certificates as for deposits of county money.

Subd. 3. SEPARATE SECURED ACCOUNT. The town's cemetery fund shall money must be deposited in such the depository in the name of such the county and. The bond or security given to the county by such the depository shall be taken and held to be as is security for such the fund; but money. The county treasurer of such county shall keep an accurate and separate account thereof and draw from such depository of the fund money.

Subd. 4. WITHDRAWAL, USE OF INTEREST. Annually the county treasurer shall withdraw the interest accruing earned on such the fund money and pay the same it to the board of directors of the cemetery and. The board of directors shall may use the interest only for the purposes of sections 365.29 to 365.36 and none other.

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



**365.34 TRANSFER OF FUND IF DEPOSITORY CHANGED, FUND TO BE CHANGED.**

It is hereby made the duty of the treasurer of any such When a county, when any change is made in the changes its depository of the funds of any such county, to change and transfer to such new depository the fund provided for in sections 365.29 to 365.36 and, the county's treasurer shall deposit such fund its towns' cemetery funds in such the new depository.

**365.35 DISPOSAL OF EXCESS FUND PRINCIPAL, EXTRA INTEREST NEVER TO BE USED.**

Any excess of The principal of a town's cemetery fund must never be used. Interest over the sum necessary for the care and beautifying of the earned by the fund that is not needed to care for or beautify the cemetery or its lots or cemetery in any one year shall be by the directors deposited in such treasury to be must added to and become a part of the principal sum and no part of the principal sum shall ever be used by the cemetery's directors.

**365.36 INVESTMENT OF CEMETERY FUND.**

Subdivision 1. LIKE SCHOOL FUND. The board of supervisors, by and through the board of A cemetery's directors of the cemetery association, if there shall be a board of directors thereof, and if there shall not be a board of directors thereof, then acting as a or, if none, the town board of supervisors, shall invest the fund so created principal of the cemetery fund in the same kind of bonds and securities as that the permanent school fund of the state may be invested in and for such purpose and none other. This law, as it shall exist at the time any money is received into this fund, shall control section controls the investment thereof and such of the principal of the fund shall be invested only as the law provides at the time of the receipt of the money into the fund, and no subsequent amendment or change in this law shall authorize the investment of any fund differently or in any other class of securities save as provided in this law when the money is received into the fund.

Subd. 2. COUNTY TREASURER'S DUTIES. The town board of supervisors and the cemetery directors may require the county treasurer of any such county to withdraw all or any part of such fund money from such the depository for investment, as hereinbefore provided, and if the fund, or any part thereof, be so invested, under this section. The bonds or other securities shall be and invested in must remain with the county treasurer and. The bond of the county treasurer shall at all times be is security for the proper care thereof and of the securities. The bond is also security for the payment to the cemetery directors of interest earned by the securities and received by the treasurer thereon to the directors of the cemetery, and upon payment of any such bonds or other. On receiving payments on the securities the county treasurer of such county, upon such payment, shall deposit the same payments in the county depository in which county funds are deposited., The county treasurer also shall collect the interest upon the funds so on money loaned and from the fund. The

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county treasurer shall then pay the same the money received and collected to the directors of the cemetery whenever requested so to do and when they ask for it. Annually the county treasurer shall pay over to the directors of the cemetery directors all interest on money collected or received by the treasurer or collected on funds so money deposited or invested as provided in under sections 365.29 to 365.36.

**Subd. 3. TREASURER'S REPORT AND STATEMENTS.** ~~On or~~ Before the first day of March 2 each year, the county treasurer shall make a report to the town board of supervisors of the town, setting forth. The report must have a statement of all moneys money received by the treasurer under the terms of sections 365.29 to 365.36 during the preceding last calendar year and set forth in detail a. The statement of must include:

(1) the amount of money and the amount of securities in the permanent fund on the first day of the calendar year and the amount of securities in the fund on the first day of the calendar year;

(2) the amount of money paid into the fund during the year;

(3) the amount of money invested in securities in the year; a statement;

(4) the amount of the money and the amount of securities held in the fund at the end of the calendar year and the amount of money in the fund at the end of the calendar year; a statement of;

(5) the amount of interest collected on the fund and turned over to the directors; and a statement of the excess, if any, of

(6) the amount of excess interest over the sum necessary for the care and beautifying of the lots which the returned by the directors, shall have deposited in the treasury to be, and added to and made a part of the permanent fund.

#### BID REQUIREMENTS, CONFLICTS OF INTEREST

**365.37 ~~CONTRACTS; LET ON CONFLICTS, BIDS, OFFICERS NOT TO BE INTERESTED~~ EMERGENCIES, PENALTY, REMOVAL.**

**Subdivision 1. NO CONFLICTS; EXCEPTIONS.** Except as provided in sections 471.87 to 471.89, ~~no supervisors, town clerk, or town board shall become a supervisor, town clerk, or town board must not be~~ a party to, or be directly or indirectly interested in, any a contract made or payment voted by the town board and all contracts.

**Subd. 2. TO LOWEST RESPONSIBLE BIDDER.** A contract let on bid shall must be let to the lowest responsible bidder after ten days public notice, posted in the three most public places in the town or published for two weeks in a newspaper generally circulated in the town.

**Subd. 3. NOTICE.** Before a contract is let on bid, ten days' public notice of

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the time and place of receiving bids must be given. The notice must be posted in the three most public places in the town or published for two weeks in a newspaper generally circulated in the town.

Subd. 4. SPECIAL EMERGENCY EXCEPTION. ~~In cases of~~ If a special emergency comes up, a contract may be let without the notice being given or sealed bids solicited competitive bidding. A special emergency, for the purposes of this section, is a situation where requiring immediate action must be taken, essential to the health, safety, or welfare of the community town.

Subd. 5. VIOLATION; MISDEMEANOR AND REMOVAL. Every A contract made ~~and or~~ payment voted or made contrary to the provisions of this section shall be is void and any such. A town officer violating the provisions of who violates this section shall be is guilty of a misdemeanor and, in addition to the provisions prescribed by law, removed from and must leave office.

#### CLAIMS, LAWSUITS, JUDGMENTS

##### 365.38 FILING CLAIMS; DEMAND NOTIFY CLERK BEFORE SUIT; WAIT 30 DAYS ON ORDER.

Subdivision 1. ON MOST MONEY CLAIMS; EXCEPTIONS. ~~No~~ If an action upon any on a claim or cause of action for which a can demand only a money judgment only is demandable, except upon town orders, bonds, coupons, or written promises to pay money, shall be maintained the action cannot be brought against any a town unless until a statement of such the claim shall have been is filed with the town clerk. Filing is not required for actions on a town order, bond, coupon, or written promise to pay money.

Subd. 2. TOWN ORDERS. ~~No~~ An action shall cannot be brought upon any on a town order until the expiration of 30 days 31st day after payment thereof has been of the order is demanded.

##### 365.39 ACTIONS LAWSUIT WITH TOWN AS PARTY IS LIKE ANY LAWSUIT.

Actions and proceedings between towns, or between a town and an individual or a corporation, shall be begun, tried, and conducted in the same manner, and a judgment therein shall have a like effect, as in similar actions and proceedings An action or proceeding with a town as a party must be handled as other actions and proceedings are handled. A judgment has the same effect as a judgment in a similar action or proceeding between individuals.

##### 365.40 ACTIONS, IN WHAT NAME TOWN NAME IN SUIT; EXCEPTION; SERVICE; DEFENSE.

Subdivision 1. TOWN OR OFFICERS NAMED. In all actions or proceedings the town shall sue and be sued in its name, except where that town officers are authorized to may sue in their official names for its the town's benefit.

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

Subd. 2. SERVE CHAIR OR CLERK. In every an action against a town, process and papers shall must be served on the chair of the town board or on the town clerk; and such.

Subd. 3. CHAIR DEFENDS, TELLS BOARD. The chair shall attend to the defense of see that the action; and lay before is defended. The chair shall also give the town board of supervisors at the first meeting a full statement of the facts relating thereto for its direction in defending about the action or proceeding so that the board can decide how to defend it. The statement must be given at the first board meeting after the town is served.

365.41 JUDGMENTS JUDGMENT AGAINST TOWNS TOWN; PAYMENT; EXECUTION.

Subdivision 1. PAID BY TOWN TREASURER. When A judgment is recovered against a town, or against any a town officer in an action against the officer in an official capacity, no execution shall be issued thereon; but, unless reversed or stayed; it shall must be paid by the town treasurer upon on demand and the delivery of if there is enough unappropriated money on hand. The demand is made by giving the town treasurer a certified copy of the docket thereof; if the treasurer has on hand sufficient town money not otherwise appropriated of the judgment. An execution of the judgment must not be issued at this time.

Subd. 2. UNPAID IF STAYED, APPEALED. If the judgment is reversed or stayed the town treasurer must not pay it.

Subd. 3. PERSONALLY LIABLE. A treasurer failing to do so shall be personally liable if a town has enough money but its treasurer does not pay the judgment, the treasurer is liable for the amount; unless the collection thereof is afterwards of the judgment. The personal liability is removed if the collection of the judgment is later stayed upon on appeal.

Subd. 4. TAX LEVY; EXECUTION, IF NOT PAID. If payment is not made the town does not have enough money on hand to pay the judgment the town shall levy to pay it. The town treasurer then must pay the judgment within 30 days after the time fixed by law for the county treasurer to has to pay over to the town treasurer the levy money on hand belonging to the town levied for the purpose of paying such judgment; treasurer. If the payment is not made by then, execution on the judgment may issue; but be made. Only town property shall be is liable thereon on the execution.

365.42 TAX TO PAY AMOUNT OF UNPAID JUDGMENT ADDED TO TAX LEVY.

If a judgment for the recovery of money is rendered against a town; and is not satisfied or proceedings thereon stayed before the next annual town meeting; upon presentation of A certified copy of the docket of such an unsatisfied money judgment to such may be presented to the first annual town meeting after the

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judgment is rendered. If proceedings on the judgment are not stopped the town board shall then add the amount of the judgment to the tax levy for that year ~~the amount of such judgment.~~

#### YEARLY TAX, SPENDING, DEBT LIMITS

##### 365.43 ~~YEARLY ASSESSED TAXES TO LIMIT DEBTS AND EXPENDITURES; EXCEPTION NO DEBT, SPENDING BEYOND TAX LIMIT WITHOUT VOTE.~~

Subdivision 1. LEVIED AMOUNT IS SPENDING LIMIT. ~~No~~ A town shall must not contract debts or make expenditures for any one spend more money in a year exceeding in amount than the taxes assessed levied for such the year; unless such debt or expenditure is authorized by the without a favorable vote of a majority of the town's electors of such town; and no taxes in excess of the amounts authorized by law shall be levied by any town in any one year.

Subd. 2. LAW LIMITS LEVIED AMOUNT. A town must not levy more taxes in a year than are authorized by law.

##### 365.431 AMOUNT VOTED AT MEETING IS TAX LIMIT.

The tax for town purposes must not be more than the amount voted to be raised at the annual town meeting.

#### SEPARATION FROM STATUTORY CITY

##### 365.44 ~~SEPARATION FROM A STATUTORY CITY FIFTY VOTER PETITION; BALLOT AT TOWN MEETING.~~

Upon filing with the clerk of any town of a notice, signed by not less than 50 town voters residing either within or without the statutory city to be separated stating that The question of the separation of the whether a town is to be separated for all purposes from any a statutory city located within the town will may be voted upon on at the next town's annual town meeting. This section must be followed for the separation to take place. At least 50 of the town's electors must sign a notice stating that the question will be voted on at the next annual meeting. The signers may reside within or outside the city. The notice must be filed with the town clerk. The clerk shall insert include the statement question in the notice of the meeting; and. The question shall must then be voted upon on by a ballot. If a majority of the votes cast upon the proposition be on the question are in favor of the separation, the town shall be is separated from the statutory city for all purposes. Only voters residing without outside the statutory city may vote upon on the question at the town meeting.

#### DISSOLUTION OF TOWNS

##### 365.45 ~~DISSOLUTION OF TOWNS BY COUNTY IF ASKED, OR ON ITS OWN IF TAXES LATE.~~

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

Subdivision 1. RESOLUTION; NOTICE. A town is dissolved when its county board adopts a resolution to dissolve it. The county auditor shall give ten days' notice of the meeting that will consider the resolution. The notice must be given by publishing it in the newspaper that publishes the county board's proceedings.

Subd. 2. TWO WAYS. There are two ways for the matter of town dissolution to come before the county board: by town vote or by county board initiative.

Subd. 3. FIRST: TOWN VOTE. When the A town's electors of any town, at the annual meeting, or at a special meeting called for that purpose, shall have voted, may vote by ballot, to dissolve the town organization hereunder, The town's board thereof shall adopt a resolution setting forth such facts and asking for the dissolution of the town; and then shall ask the county board to dissolve the town. When the town board asks, it shall tell the county board how many electors voted for and how many voted against the dissolution. The vote must be taken at an annual meeting or at a special meeting called for the purpose. A copy of the resolution asking for the dissolution, duly certified by the town clerk, shall must be presented to the town's county board of county commissioners of the county in which such town is located; such board of county commissioners may, or whenever,

Subd. 4. SECOND: BY COUNTY INITIATIVE. A county board may take up a town's dissolution on its own. To do so, the tax delinquency in any the town exceeds must be more than 70 percent in any one year; the board of county commissioners of the county wherein such town is situated; on its own initiative, may, by resolution, dissolve such,

Subd. 5. HOW TERRITORY TO BE GOVERNED. In dissolving a town and the county board may attach the town's territory formerly embraced therein to an adjoining town or towns, or provide for the government of such territory govern it as unorganized territory of the county.

Subd. 6. APPROVAL OF JOINED TOWN. If such dissolved territory of the dissolved town is added to an adjoining town the proposal therefor shall addition must first have the approval of be approved by a five-eighths majority of the those voting electors of such town to which the dissolved territory is added. Upon the adoption of the resolution by the county board such town shall be dissolved and no longer entitled to exercise any of the powers or functions of an organized town. The county auditor shall give ten days notice, by one publication in the paper in which the proceedings of the county board are published; of the meeting of the county board at which such petition will be considered on the question in the adjoining town.

**365.46 COPY OF RESOLUTION FILED WITH NOTICE TO SECRETARY OF STATE, OTHERS; RECORDING.**

Subdivision 1. BY COUNTY AUDITOR. The county auditor shall immediately send a certified copy of the resolution of the county board board's declaring

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such town to be dissolved shall forthwith be forwarded by the county auditor resolution dissolving a town to the secretary of state, ~~who shall, on receipt thereof, make an appropriate.~~ The secretary of state shall then record of the dissolution of such town.

Subd. 2. COPIES. The county auditor shall also ~~provide~~ send a copy of the notice of the dissolution to: (1) the state demographer, (2) the land management information center, (3) the Minnesota municipal board, and (4) the commissioner of transportation.

### 365.47 COUNTY'S DISPOSAL OF TOWN'S FUNDS; DEBT LEVY.

Subdivision 1. THIS SECTION CONTROLS. Any funds belonging to the town ~~remaining~~ A dissolved town's money that remains in or thereafter coming comes into the county treasury of the county in which such town was located shall must be disposed of in the following manner: under this section.

Subd. 2. ROAD AND BRIDGE. Any Money in the road or and bridge fund shall must be expended spent by the county board of such county for road and bridge improvements wholly within the limits of such town; any other funds of such.

Subd. 3. REMAINDER FOR DEBT. The county auditor shall use all other town shall, by the auditor of such county, be used money to pay all outstanding bonds, warrants, or and judgments against the town.

Subd. 4. IF SHORT, LEVY, BOND. If the funds so remaining are not sufficient the county does not have enough town money to pay such the holders for the outstanding bonds, warrants, or and judgments, then, upon the holders may petition of the holders thereof, the county auditor for a levy. The county auditor shall spread enough of a tax levy against the taxable property of the town in an amount sufficient to pay the same, which the holders off. The levy shall must not exceed be more than the maximum amount which that the town would have been authorized to could levy for the purpose of paying such indebtedness to pay those debts if it had not been were not dissolved. If the one levy shall does not be sufficient raise enough money to pay off such the bonds, warrants, or and judgments, the county auditor shall spread successive annual levies in to pay them off. The levies must be for the maximum amount which that the town would have been able to could levy for such the purpose if it had not been were not dissolved. The levy must be made until such the warrants, bonds, or and judgments are paid in full, unless bonds are issued therefor as provided in for them under section 365.48.

### 365.48 PAYMENT OF INDEBTEDNESS COUNTY MAY BOND TO PAY DEBT OF DISSOLVED TOWN.

Subdivision 1. IF YEAR'S LEVY NOT ENOUGH. In the event the outstanding bonds, warrants, and judgments shall exceed the maximum amount which may be raised by one year's levy, as provided for in sections 365.45 to 365.49, the A county board may issue funding or refunding bonds; in the

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manner to pay off the outstanding bonds, warrants, and judgments of a dissolved town if they amount to more than one year's maximum levy under section 365.48. The bonds must be issued as provided by law for the issuance of county funding or refunding bonds; to take up such warrants, judgments, or bonds.

Subd. 2. NO ELECTION. The bonds may be issued without first submitting the question of such the issue to the electors residing in the town's territory or in the county.

Subd. 3. OBLIGATION OF TOWN TERRITORY ONLY. Any The bonds so issued shall are not be an obligation of the county but shall be are an obligation of the territory formerly included that used to be in such the town and shall be. The bonds are payable out of levies made against the property in such that territory, as provided in under section 365.47; and such restriction shall. The restrictions in this subdivision must be printed upon on the face of the bonds.

Subd. 4. CHAPTER 475 APPLIES. Except as provided in sections 365.45 to 365.49, such The bonds shall must be issued pursuant according to the provisions of sections 475.51, 475.53, 475.54, 475.58, 475.62, 475.63, 475.66, and 475.72; and unless this section has a different procedure. The tax levy required by section 475.61 shall must be made against the property of the territory formerly included in such town at the time of the issuance of such obligated on the bonds.

#### 365.49 PROPERTY TO REVERT OF DISSOLVED TOWN BELONGS TO COUNTY.

Subdivision 1. IF NEEDED BY COUNTY: CREDIT. Any property, A dissolved town's real or personal; of such town which property that is needed for county purposes shall become becomes the property of the county but. The reasonable value thereof of the property, as determined by the county board, shall must be credited to such the town and used for the purpose of paying to pay off outstanding bonds, warrants, or judgments.

Subd. 2. IF UNNEEDED: NO CREDIT. Any Other property of such the town shall become becomes the property of the county without any allowance being made therefor credited to the town.

Subd. 3. SURPLUS TOWN MONEY. Any Surplus funds money of the town; after all obligations have been are paid; shall must be credited to the county's general fund of the county.

#### TOWN MEETING

#### 365.50 FIRST TOWN MEETING; NOTICE, OFFICERS, POWERS.

Subdivision 1. WHEN, WHERE. The first town meeting in each a new

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town shall must be held within 20 days after ~~it~~ the town is organized; at a time and place to be designated by ~~the~~ county board; and shall name the time and place of the meeting. The county auditor shall ~~cause see that~~ ten days' posted notice thereof to be of the meeting is given in each ~~such~~ the town.

Subd. 2. MEETING OFFICERS. The voters present at ~~such~~ the meeting; between 9:00 a.m. and 10:00 a.m. or ~~such other time as shall be set by the town board;~~ shall choose one of their number as moderator, two others as judges of election, and one as clerk ~~who.~~ Each of these meeting officers shall severally take and subscribe sign the oath required of ~~judges~~ a judge of a general election; ~~which.~~ The oath may be administered to the judges by the moderator; and to the moderator by one of the judges. ~~They~~ The meeting officers shall ~~thereupon~~ conduct then run the proceedings of such meeting; and the voters shall possess the same.

Subd. 3. ELECTORS' POWERS. During the meeting, the electors have the powers as they have at other town meetings.

**365.51 ANNUAL TOWN MEETING; PRECINCTS; POLLING PLACES NOTICE, BUSINESS, ELECTIONS.**

Subdivision 1. WHEN; BAD WEATHER. There shall be an A town's annual town meeting must be held in each town on the second Tuesday of March at the place ~~designated~~ named by the last annual town meeting; and. If no designation is ~~so made~~ place was named then, the meeting must be held at the place ~~designated~~ named by the town board. The place ~~designated~~ named may be located outside the town if the place is within five miles of ~~one~~ a town boundary of the town. In the event of inclement weather, if there is bad weather on meeting day, the meeting shall be held on another March day ~~designated by the town board~~ shall set the meeting for another day in March.

Subd. 2. NOTICE. The clerk shall give ten days' published notice ~~specifying of the~~ time and place of the meeting in a qualified newspaper having general circulation ~~within in~~ the town; ~~or by.~~ An alternative to published notice is posted notice, as directed by the town board ~~shall direct~~ unless the voters electors at the an earlier annual town meeting direct otherwise.

Subd. 3. OFFICERS; OTHER BUSINESS. All town officers required by law to be elected shall must be chosen thereat; and elected at the town meeting. The meeting must also take up other business ~~done as is by law required or permitted by law and may take up other business allowed by law.~~

Subd. 4. PRECINCTS; POLLING PLACES. The town board may; ~~with respect to an election by ballot at the annual town meeting for the purpose~~ choose to use precincts and polling places to elect of selecting town officers or of determining to decide any matter of town business; ~~provide for the casting of ballots in precincts and at polling places requiring a ballot election.~~ Precincts and polling places shall, if used, must be ~~designated~~ set up by the town board ~~in the manner prescribed by~~ under sections 204B.14 and 204B.16.

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

**365.52 SPECIAL TOWN MEETINGS; PRECINCT; POLLING PLACES; MEETING; VACANCY, OTHER WORK, ELECTION.**

**Subdivision 1. HOW, WHY CALLED.** A special town meeting may be held for the purpose of an election to fill a vacancy when the town board has failed to fill the vacancy by appointment; ~~or for transacting any.~~ A special meeting may also be held to do other lawful business whenever. To call a special meeting, the supervisors and town clerk, or any two of them, together with at least 12 other town freeholders ~~of the town,~~ shall file a statement in the town clerk's office of the town clerk a ~~written statement setting forth the reasons and necessity for.~~ The statement must tell why the meeting and is called, the particular business to be transacted ~~at it,~~ and that the interests of the town require ~~that the meeting be held.~~ A special town meeting may also be called ~~upon a~~ on petition of 20 percent of the eligible voters electors of the town; ~~based upon.~~ The percentage is of the number of voters at the last general election.

**Subd. 2. PRECINCTS; POLLING PLACES.** The town board may, with respect to an election by ballot at the annual town meeting for the purpose choose to use precincts and polling places to elect of selecting town officers or ~~of determining to decide~~ any matter of town business; ~~provide for the casting of ballots in precincts and at polling places requiring a ballot election.~~ Precincts and polling places ~~shall, if used, must be designated set up~~ by the town board in the manner prescribed by under sections 204B.14 and 204B.16.

**365.53 NOTICES; PUBLICATION CLERK TO RECORD NEED TO MEET; GIVE NOTICE.**

**Subdivision 1. CLERK'S DUTIES.** When the statement is so filed, The clerk shall record ~~it, and the statement of need for a special town meeting after it is filed.~~ The clerk shall also give ten days' published notice specifying of the time ~~and,~~ place, and the purpose ~~for which of~~ the meeting is ~~to be held.~~

**Subd. 2. PUBLISHED OR POSTED NOTICE.** The notice must be published in a qualified newspaper having general circulation ~~within in~~ the town; ~~or by.~~ An alternative to published notice is posted notice; as directed by the town board ~~shall direct unless the voters electors at the an~~ annual town meeting direct otherwise.

**Subd. 3. VACANCY DETAILS IN NOTICE.** If a vacancy in an office is to be filled, the notice ~~shall specify in what must name the office it exists, and tell how it the vacancy occurred, who was the last incumbent, and when the legal term of the office expires.~~

**365.54 ORGANIZATION OF MEETING ANNUAL MEETING TIME; CONVENER; MODERATOR; PAY.**

**Subdivision 1. CONVENING.** The An annual town meeting ~~shall must~~ convene at 9:00 a.m. ~~provided that unless~~ the electors at the last annual meeting may set a later time for ~~convening the next subsequent annual meeting.~~

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

Subd. 2. CLERK'S CALL TO ORDER. The voters present between 9:00 a.m. and 10:00 a.m. or such other clerk shall call the meeting to order at a time as may be set by the town board on the day of the annual or any special town meeting, or by the electors at the previous last annual meeting; shall be called to order by the town clerk, if present; If the town board sets the time, it must do so on the day of the annual, or a special, town meeting. If no time is set, the clerk shall call the meeting to order between 9:00 a.m. and 10:00 a.m.

Subd. 3. CHAIR, IF CLERK ABSENT. If ~~not the clerk is not there,~~ the voters present may elect a chair by acclamation.

Subd. 4. MODERATOR; PAY. ~~The~~ The voters shall then in the same manner choose a moderator of such town for the meeting in the same way. The moderator may be paid \$2.50 for such work, or such amount as may be allowed by The town board shall decide how much to pay the moderator.

**365.55 TOWN CLERK OF IS MEETING CLERK; MINUTES TO BE FILED.**

The town clerk shall be is clerk of the town meeting, and shall keep full minutes of its proceedings; in which shall be entered at length. The minutes must contain the full text of every order or, direction, and all rules and regulations rule made by the meeting. If the town clerk is absent, the voters present shall elect a clerk of the meeting. The minutes of such the meeting shall must be subscribed signed by the clerk of the meeting and by the judges; and. The minutes must be filed in the office of the town clerk within two days after the meeting.

**365.56 ORDER OF BUSINESS; PARLIAMENTARY PROCEDURE.**

Subdivision 1. MODERATOR STATES ORDER FIRST. At the opening beginning of every a town meeting, the moderator shall state the order of business to be transacted, which in case of,

Subd. 2. SPECIAL MEETING: ONLY NOTICED BUSINESS. At a special town meeting shall be, business is limited to the business specified listed in the meeting notice of such meeting, and the order in which it will be entertained; and no.

Subd. 3. TAX VOTED ON IN ORDER. A proposition to vote a tax shall must not be acted on out of the order of business stated by the moderator; and no proposition.

Subd. 4. MOTION TO RECONSIDER. A motion to reconsider any a vote shall be entertained at any town meeting unless must be made within one-half hour from the time such of the vote was passed; or the. To pass, a motion for such reconsideration is sustained by a number of voters equal to reconsider must be favored by a majority of all the names the electors entered upon on the election register at such election up to the time such when the motion is made; and.

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

Subd. 5. VOTING MAJORITY WINS. All questions ~~upon~~ on motions made at town meetings shall be determined except a motion to reconsider ~~are~~ decided by a majority of the electors voting; and on the question.

Subd. 6. MODERATOR DECIDES, DECLARES VOTE. The moderator shall ~~ascertain~~ decide and declare the ~~result~~ vote on each ~~such~~ question.

**365.57 WHO MAY VOTE; CHALLENGES; OATH.**

Every person A town resident who is qualified to vote at a general election may vote at any town meeting in the town where the person resides ~~the town's meetings~~. If a voter is challenged, the judges shall ~~proceed thereupon~~ act as in the case of ~~challenges~~ a challenge at a general election; ~~adopting the oath to.~~ The oath must be changed to fit the circumstances of the case.

**365.58 ~~MEETINGS MAY BE ADJOURNED~~ MAY ADJOURN MEETING EXCEPT TO ELECT OFFICERS.**

Any A town meeting may be adjourned to any other day, ~~and from time to time;~~ for the purpose of transacting or later the same day, to transact any business of the town except the election of officers.

**365.59 ~~FAILURE TO ELECT COUNTY TO APPOINT OFFICERS IF NONE ELECTED.~~**

Subdivision 1. SECOND MEETING TRY. ~~When any~~ If a town fails to organize or ~~fails~~ fails to elect ~~town~~ officers at the ~~time fixed by law~~ annual town meeting, 12 freeholders ~~thereof of the town~~ of the town may call a town meeting for ~~such purpose~~ these purposes. The meeting is called by giving ten days' posted notice ~~thereof; setting forth its of it.~~ The notice must include the time, place, and ~~object~~ purpose of the meeting.

Subd. 2. [30-DAY WAIT; AFFIDAVIT.] ~~If no such the~~ notice under subdivision 1 is given in ~~such case~~ not posted within 30 days after the ~~time date~~ date for holding ~~the annual town meetings~~ meeting, the county board; ~~on the affidavit of any freeholder of such town; filed with the county auditor; setting forth the facts;~~ shall appoint officers for ~~such the town; who shall have all the powers of officers duly elected; and.~~ The officers shall hold their offices until their successors qualify. The county board shall act only after an affidavit of a freeholder of the town is filed with the county auditor. The affidavit must state the facts that require the county board to act.

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## ARTICLE 9

Section 1. Minnesota Statutes 1986, chapter 430, is amended to read:

**430.01 DESIGNATION OF LAND FOR SYSTEM OF STREETS, PARKS AND PARKWAYS VARIOUS USES.**

Subdivision 1. STREETS; PARKS; AND PARKWAYS. The council and the board of park commissioners of any a city of the first class may, ~~by concurrent resolution adopted by a majority vote of each body,~~ designate lands land to be acquired for a system of streets, parks, and parkways; ~~and determine that this land shall be acquired by proceedings.~~ They may take this action only by concurrent resolution adopted by a majority vote of each body. The land must be acquired under this chapter, ~~to be in proceedings~~ conducted either by the city council or the board of park commissioners, as ~~this~~ stated in the resolution shall specify.

Subd. 2. PARKING LOTS; PEDESTRIAN MALLS AND USES. The council of ~~any such a~~ city, ~~acting separately, of the first class~~ may by resolution ~~so adopted,~~ designate lands land to be acquired, improved, and operated for motor vehicle parking lots. ~~The council of any such city, acting separately, may~~ By resolution ~~so adopted,~~ the council may designate lands to be acquired, improved, and operated for pedestrian malls ~~or may.~~ By ordinance adopted ~~as provided in~~ under section 430.011, the council may designate streets in central business districts to be improved primarily for pedestrian uses.

Subd. 3. PERFORMANCE OF DUTIES. ~~If proceedings are taken by the~~ board of park commissioners acts, the duties ~~herein specified~~ to be performed under this chapter by the city clerk, the city engineer, and the city attorney, respectively, ~~shall must~~ be performed by the secretary, the engineer, and the attorney elected and employed by the board of park commissioners, and the powers ~~hereinafter specified~~ to be exercised under this chapter by the city council ~~may for the purposes of this chapter~~ be exercised by the board of park commissioners.

Subd. 4. DEFINITION. As used in this chapter, the term "system of streets, parks, and parkways"; ~~as used herein, shall embrace any means a~~ body of contiguous land ~~of whatever shape or area, designed ultimately to be used in part for streets and in part for parks or parkways; and.~~ The concurrent resolution shall must designate ~~what which~~ part is for streets, ~~what which~~ part is for parks, and ~~what which~~ part is for parkways.

Subd. 5. INDEPENDENT ACTION. ~~When If~~ the city council desires ~~wants~~ to take ~~or,~~ improve, or take and improve, land for street purposes ~~alone,~~ ~~or~~ to take land for motor vehicle parking lots, ~~or~~ to take land for pedestrian malls, ~~or to~~ improve streets for pedestrian uses, it may ~~proceed act~~ act under this chapter for that purpose without the concurrence of the board of park commissioners; ~~and when.~~ If the board of park commissioners desires ~~wants~~ to take ~~or,~~ improve, or ~~to~~ take and improve, land for parks ~~and~~ or parkways ~~alone, or~~

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either, it may proceed act under this chapter without the concurrence of the city council.

#### 430.011 ORDINANCES LIMITING USE OF STREETS; PEDESTRIAN MALLS AND DISTRICTS.

Subdivision 1. **LEGISLATIVE FINDINGS.** The legislature of the state of Minnesota finds that: ~~(a)~~ (1) increases in population and automobile usage have created conditions of traffic congestion in central business districts of cities of the first class; ~~(b)~~ (2) those conditions constitute a hazard to the safety of endanger pedestrians and impede the movement of police and fire equipment, ambulances, and like other emergency vehicles; ~~(c)~~ (3) streets in such those central business districts improved to their maximum width for sidewalk and roadway purposes cannot be further widened without taking valuable buildings and improvements, substantially impairing the primary function of such those city streets of such cities as pedestrian facilities, and impairing their the cities' sources of tax revenue; and ~~(d)~~ (4) limitation on the use of such those streets by private vehicles may be found by the council of any such city of the first class to be in the interest of the city and state, to be of benefit to adjoining properties, and to be essential to the effective use of such the streets for street purposes.

Subd. 2. **STATEMENT OF POLICY.** It is the ~~public~~ state's policy of the state of Minnesota to permit the city council of any city of the first class to protect the public welfare and the interests of the public in the safe and effective movement of persons and to preserve and enhance the function and appearance of the central business districts of such cities of the first class by adopting pedestrian mall ordinances as herein provided under this section.

Subd. 3. **PEDESTRIAN MALL ORDINANCES AUTHORIZED.** A pedestrian mall ordinance may be adopted if the city council finds that:

(1) a street or a part thereof ~~(a)~~ of a street (i) is not a part of any state highway, ~~(b)~~ (ii) is located primarily in a central business district, ~~(c)~~ (iii) is improved to its maximum width for roadway and sidewalk purposes, and ~~(d)~~ (iv) is congested during all or some a substantial part of normal business hours; ~~that (e)~~

(2) reasonably convenient alternate routes exist for private vehicles to other parts of the city and state; ~~that (f);~~

(3) continued unlimited use of the street or part thereof of the street by private vehicles may constitute a hazard to the safety of endanger pedestrians; ~~that (g);~~

(4) abutting properties can reasonably and adequately receive and deliver merchandise and materials from other streets and alleys or by reason of provision made through arrangements for limited use of the streets by carriers of such merchandise and materials; and ~~that (h)~~

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

(5) it would be ~~to~~ in the best interests of the city and the public and of benefit to adjacent properties to use ~~such the~~ the street primarily for pedestrian purposes and pedestrian use is the highest and best use of ~~such the~~ the street or part thereof of it.

Subd. 4. **ORDINANCE PROVISIONS.** ~~The~~ An ordinance ~~shall~~ under subdivision 3 ~~must~~ (a) (1) set forth ~~such the~~ the findings ~~required in~~ required in subdivision 3, ~~(b)~~ (2) designate ~~such a~~ a street or part thereof of a ~~street~~ street as a pedestrian mall, ~~(c)~~ (3) limit the use of the surface of ~~such the~~ the street or part thereof of the ~~street~~ street at all times or during ~~such~~ such hours or days as ~~set by~~ set by the council ~~shall determine~~ shall determine to pedestrians and to ~~such~~ such classes of emergency, public works, maintenance, service, and utility transportation vehicles as are defined in the ordinance ~~and prohibit~~ and prohibit the use of ~~such street or part thereof~~ such street or part thereof by other vehicles, and ~~(d)~~ (4) include ~~such further~~ such ~~other~~ other provisions as are herein required in this chapter.

Subd. 5. **INTERSECTING STREETS.** ~~No~~ An ordinance under subdivision 3 ~~must state that~~ must state that a limitation of use ~~shall does not~~ does not apply to vehicles on an intersecting street crossing ~~such the~~ the street or part thereof of a ~~street~~ street designated as a pedestrian mall, unless ~~such the~~ the intersecting street is similarly designated, ~~and the ordinance shall so provide.~~

Subd. 6. **USE OF PEDESTRIAN MALL BY PUBLIC CARRIERS.** If the council ~~shall further find~~ finds that ~~such a~~ a street or part thereof of a ~~street~~ street limited under this section is served by a transit utility engaged in mass transportation of persons within the city by bus or street railway, and that continued use of ~~such the~~ the street or part thereof of the ~~street~~ street by ~~such the~~ the transit utility will be a benefit ~~to~~ to the city and the public and to adjacent property, ~~it~~ the council shall permit ~~such the~~ the transit utility to use ~~such the~~ the street or part thereof of the ~~street~~ street for ~~such transit~~ transit purposes to the ~~same~~ same extent and subject to the ~~same~~ same obligations and restrictions as are applicable to ~~such the~~ the transit utility in the use of other streets of the city. Upon ~~like~~ similar findings, ~~it~~ the council may permit use of ~~such the~~ the street or part thereof of the ~~street~~ street by utilities engaged in carrying persons by taxicabs.

Subd. 7. **SPECIAL ACCESS PERMITS.** If any property abutting ~~upon~~ such on a street or part thereof of a ~~street~~ street limited under this section does not, ~~at the time such when~~ an ordinance is adopted, have access to some other street or alley for delivery of or receiving merchandise and materials, the council shall provide for deliveries in the ordinance ~~for the issuance of.~~ It may do so by issuing a permit ~~or permits~~ to the owners or occupants of ~~such the~~ the property for the use of ~~such the~~ the street or part thereof of the ~~street~~ street for deliveries, or otherwise in the ordinance. The council shall provide for deliveries, during ~~such~~ such hours and days, which need not be ordinary business hours or days, as the council ~~shall find~~ finds to be reasonably adequate for ~~such the~~ the purpose and not to interfere with the use of the street or part thereof of the ~~street~~ street by pedestrians and other authorized vehicles.

Subd. 8. **HOW ADOPTED** ADOPTION WITH IMPROVEMENT PRO-

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

**CEEDINGS.** If ~~such an~~ ordinance is to be adopted in connection with an improvement of the street under this chapter, it ~~shall~~ must so state ~~and shall,~~ must be introduced as a proposed ordinance and given its first reading concurrently with the introduction and adoption of the resolution of the council ~~instituting beginning~~ the improvement proceedings. ~~In such cases, it shall, and must~~ not be given its final reading ~~nor~~ or be finally adopted until the council ~~shall take~~ has taken action on the proposed improvement ~~pursuant to~~ under section 430.02, subdivision 12.

Subd. 9. **HOW ADOPTED ADOPTION IN OTHER CASES.** If ~~such An~~ ordinance ~~that~~ is not being adopted in connection with an improvement of the street under this chapter, it ~~shall so~~ must state ~~that fact~~ and ~~shall~~ be considered and adopted ~~as in the case of like~~ other ordinances, subject to the right of appeal ~~provided in~~ under section 430.031; ~~but.~~ The council shall not meet to give ~~such the~~ ordinance its final reading or to finally adopt ~~such the~~ ordinance unless a copy of the proposed ordinance and a notice stating the time and place at which the council will meet to consider its adoption ~~shall have~~ has been published in the official newspaper of the city at least once, and ~~shall have~~ has been mailed to the owners of the ~~several~~ lots or parcels of land abutting on the proposed pedestrian mall; at least three weeks ~~prior to~~ before the date of ~~such~~ meeting.

Subd. 10. **DESCRIPTION OF ASSESSABLE PROPERTIES.** If ~~such An~~ ordinance ~~is to~~ be adopted in connection with an improvement of the street under this chapter, it ~~shall~~ must describe the property to be assessed for ~~such the~~ improvement; ~~and.~~ No property ~~shall be~~ is subject to assessment for ~~such the~~ improvement ~~which~~ unless it is ~~not~~ described in the ordinance.

Subd. 11. **ANNUAL COSTS; DISTRICTS.** If ~~such an~~ ordinance is to be adopted in connection with an improvement of the street under the provisions of this chapter, and if the ordinance includes a council ~~shall determine~~ determination that ~~(a)~~ (1) the improvement will involve annual costs in addition to the initial cost of constructing and making the improvement, and ~~that~~ (b) ~~such~~ (2) the annual costs will provide benefits primarily to adjacent property; rather than to the city as a whole, the ordinance may ~~provide~~ require that the improvement and its facilities ~~thereof~~ shall be operated and maintained ~~pursuant to the provisions of~~ under section 430.101 and the costs ~~thereof~~ assessed or taxed to benefited properties ~~pursuant to the provisions of~~ under section 430.102.

In lieu thereof and at any time Alternatively, after a pedestrian mall ordinance has been adopted or lands have been acquired or improved for a pedestrian mall, the council may ~~upon such determination~~ provide; require by separate ordinance or by amendment to a pedestrian mall ordinance; that the improvement and its facilities ~~thereof~~ shall be ~~so~~ operated and maintained and the costs ~~so~~ taxed and assessed to benefited properties under sections 430.101 and 430.102, subject to appeal ~~as provided in~~ under section 430.031. In ~~any such that~~ case, ~~such the~~ ordinance ~~shall~~ must describe the properties to be assessed or taxed for ~~such~~ annual costs; ~~which.~~ The area may be given the name "(name of street) Pedestrian Mall Improvement District."

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



Subd. 12. **PROTESTS.** ~~If~~ The owners of lands abutting on a street or part thereof of a street proposed as a pedestrian mall representing a majority of the frontage on the proposed pedestrian mall ~~have made~~ may make written objection to the establishment of the proposed pedestrian mall at any time before the ordinance ~~shall have~~ has been given its final reading and adopted. If they do the council ~~shall find and shall terminate~~ end the proceedings for ~~such~~ establishment of the mall. In ~~such that~~ event, no ordinance ~~for the establishment of~~ establishing the same or substantially the same pedestrian mall ~~shall may~~ be introduced or adopted within one year after ~~such~~ the termination.

Subd. 13. **INTERPRETATION; REPEAL AND AMENDMENTS.** Notwithstanding the improvement of ~~any~~ a street as a pedestrian mall or the adoption of a pedestrian mall ordinance, the city and its council ~~shall retain its keep~~ their police powers and other rights and powers relating to the city street or street part thereof constituting the pedestrian mall, and ~~no such the pedestrian mall~~ action shall may not be interpreted or construed to be a vacation, in whole or in part, of any city street or street part therein; it being intended that in the mall area. The establishment of a pedestrian mall ~~pursuant to under~~ this chapter is a matter of regulation only. ~~Nothing in~~ This chapter ~~shall be interpreted or construed to does not~~ prevent the city and its council, at any time ~~subsequent to after~~ the adoption of a pedestrian mall ordinance, from abandoning the operation of the pedestrian mall, from changing the extent of the pedestrian mall, from supplying or amending the description of the district to be specially assessed or taxed for annual costs of the pedestrian mall, or from changing or repealing any limitations on the use of the pedestrian mall by private vehicles or any plan, rule, or regulations adopted for the operation of a pedestrian mall.

Subd. 14. **WHEN EFFECTIVE.** Any An ordinance or amendment thereto adopted ~~pursuant to under~~ this section ~~shall does~~ not become effective ~~or be in force~~ until 20 days after ~~the its~~ final adoption and publication thereof.

#### 430.02 PROCEEDINGS FOR ACQUISITION OF LANDS.

Subdivision 1. **PLAT AND SURVEY.** After ~~the~~ adoption of the resolution ~~it shall be the duty of,~~ the city engineer to shall make and present to the council a plat and survey of the proposed improvement, ~~showing.~~ The plat or survey must show character, course, and extent of the ~~same~~ improvement and the property necessary to be taken or interfered with ~~thereby,~~ with the name of the owner of each parcel of the property, ~~so far as to the extent~~ the engineer can readily ascertain find the ~~same~~ name, and ~~such a statement as may in the opinion of the engineer be proper~~ to explain the plat and survey and the character and extent of the proposed improvement. For constructing pedestrian malls or improving streets primarily for pedestrian uses, the council may employ a competent engineer or landscape architect or both ~~to assist,~~ and may purchase plans or designs prepared by a competent engineer or landscape architect, to aid, the city engineer in ~~the performance of~~ duties under this chapter.

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

When the A plat and survey shall be finally adopted by the city council; it shall must be filed with the city clerk; and it shall must be held to show correctly the character and extent of the improvement actually agreed upon and ordered by the city council.

The plat shall must also show the amount of land taken from each owner, so far as to the extent the owners ~~may be~~ are known, and the lands contiguous to ~~these~~ the improvements.

Subd. 2. **COMMISSIONERS OR APPRAISERS.** The city council shall ~~then or afterwards~~ appoint five freeholders of the city, no two of whom shall reside in the same ward, as commissioners; Their duties are to view the premises and to ascertain determine and award the amount of damages and compensation to be paid to the owners of property ~~which~~ is to be taken or injured by the improvement, and to assess the amount of the damages and compensation and the expenses of the improvement upon the lands and property to be benefited by the improvement, ~~and~~ in proportion to the benefits to be received by each parcel and without regard to a cash valuation.

Three or more commissioners shall constitute a quorum and be ~~competent to~~ may perform any duty required of ~~these~~ the commissioners; ~~and they shall.~~ Commissioners must be notified of their appointment; ~~and vacancies in their number shall be filled by the city council, and they shall.~~ Commissioners must be sworn to the faithful discharge of their duties. A vacancy must be filled by the city council.

Subd. 3. **NOTICE OF HEARING; HEARING; AWARD AND APPRAISEMENT.** (a) The commissioners shall give notice, in a manner appropriate to inform the public;

(1) that the survey and plat and the pedestrian mall ordinance, if any, ~~is~~ are on file and available for examination in the office of the city clerk ~~for the examination of all persons interested and;~~

(2) that ~~they~~ the commissioners will, meet on a day and at a place designated in this the notice, meet at a place designated in the notice on or near the proposed improvement; and view the property proposed to be taken or interfered with for the purposes of ~~these improvements~~ the improvement, ~~and~~ ascertain and award ~~therefor~~ compensation and damages, ~~and~~ view the premises to be benefited by ~~this~~ the improvement, ~~and~~ assess ~~thereon~~ on the benefited premises, in proportion to the benefits, the amount necessary to pay the compensation and damage, and the cost of making the improvement, ~~and that they will then and there hear such allegations and proofs as proof offered by interested persons may offer.~~ These

(b) The commissioners shall meet and view the premises pursuant according to the notice; ~~and may adjourn, from time to time, and;~~ After having viewed the premises, they may, for the hearing of evidence and preparation of their award and assessment, adjourn or go to any other convenient place in the city,

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and may have the aid and advice of the city engineer and of any other city officer of the city, and ~~adjourn from time to time~~. If a pedestrian mall ordinance is proposed by the council under section 430.011; in connection with an improvement, the commissioners may consider the business uses of abutting property affected by such the ordinance and by the related improvement ~~to which it relates~~ and the probable effect ~~which~~ the ordinance and improvement will have on the value of such the property and such its uses, and the commissioners shall consider whether such the property has access to ~~some other~~ another street or alley for delivering and receiving merchandise and materials and the extent to which the use and value of the property without such the access under consideration will suffer as a result of the adoption of such the ordinance and the making of such the improvement.

(c) After viewing the premises and hearing the evidence offered, ~~these the~~ commissioners shall prepare and make a true and impartial appraisal ~~appraisal~~ and award of the compensation and damages to be paid to each person whose property is to be taken or injured by the in making of the improvement; ~~but~~. If the ~~remainder~~ rest of the same property, only a part of which only is to be taken or damaged by the improvement, ~~shall will~~ be benefited by the improvement, ~~then~~ the commissioners, in considering and awarding compensation and damages, shall also consider, estimate, and offset the benefits which that will accrue to the same owner; ~~in respect to~~ because of the ~~remainder~~ rest of the same property, and award that owner only the excess of the compensation or damages over ~~and above these~~ the benefits.

Subd. 4. **ASSESSMENT OF COMPENSATION AND DAMAGES; REPORT; LIST.** The commissioners shall ~~then~~ assess the amount of the compensation and damages ~~so~~ awarded under subdivision 3 upon the land and property benefited by the proposed improvements in proportion to the benefits, ~~together~~ along with the expense and cost of making the improvements; as fixed by the city council; ~~and in proportion to the benefits; but in~~. No case shall the amount of the assessment may exceed the actual benefit to the assessed lot or parcel of land ~~so~~ assessed, ~~deducting therefrom any less~~ damages or injuries to the same parcels which parcel that are less than the benefits; ~~and assessing only the excess; and~~. The commissioners shall prepare and report to the city council their ~~appraisal~~ appraisal and award ~~and~~. If, in the their judgment of the ~~commissioners~~, the ~~whole~~ total amount of the compensation and damages; ~~together with and~~ the cost of making the improvement; ~~shall exceed~~ exceeds the actual benefits to the specific property subject to assessment, they shall ~~so indicate~~ also state that fact and the amount of the excess in their report ~~and shall state the amount of the excess~~.

The commissioners shall also ~~report to~~ prepare for the city council an assessment list containing their assessment of the compensation, damages, and costs; ~~or so much thereof as shall not exceed in excess of~~ the actual benefits to the property ~~so~~ assessed; ~~which~~. The list shall must contain a brief description of each tract or parcel of property assessed, the name or names of the known owners thereof of the tract, if known; ~~and~~ the amount assessed against each

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parcel of property, and the amount of the excess of the compensation, damages, and costs ~~which that they shall~~ must return unassessed. If the city council has proposed a pedestrian mall ordinance ~~pursuant to~~ under section 430.011 in connection with an improvement, the commissioners shall include in the assessment list only those properties proposed to be assessed for the improvement under the proposed ordinance.

Subd. 5. **ASSISTANCE AND EXPENSE.** The commissioners may employ clerical assistance; ~~and~~. The cost ~~thereof~~; as well as of the clerical help, the commissioners' compensation, and the expenses of printing the notices required, including the notice of consideration by the city council, estimated at the same rate per line as the cost of printing the prior notices, ~~shall~~ must be added to the other amounts to be assessed and ~~shall~~ must be assessed ~~therewith~~ with them. The city attorney shall represent the city before the commissioners and produce ~~such~~ required evidence as the ~~case~~ may require.

Subd. 6. **PERCENTAGE PAYMENT BY CITY.** Except in the case of motor vehicle parking lots, the city council may provide; ~~in all cases; except motor vehicle parking lots~~; by the resolution appointing ~~such~~ commissioners; that a ~~certain~~ specified percentage, not exceeding 75 percent, of the total damages and costs ~~shall in any case~~ must be payable out of the city's general funds; ~~and in that case~~. The city's share must then either ~~shall~~ be added to the amount of the certificates to be issued and sold under section 430.12; or ~~shall~~ be provided by the issue of general obligation permanent improvement bonds ~~and~~. The city council shall ~~from year to year~~ annually levy a ~~sufficient~~ tax upon the taxable property of the city to pay ~~the same~~ any issued bonds with interest. ~~In such case the~~ Any amount provided required to be paid out of the general funds ~~shall fund~~ must not be assessed.

Subd. 7. **PUBLICATION OF NOTICE OF HEARING.** The commissioners shall; ~~upon the completion of their report~~; file ~~the same~~ their completed report with the city clerk ~~and thereupon it shall be the duty of~~. The city clerk to ~~shall then~~ prepare a list of descriptions of the several lots and parcels of land taken for ~~these~~ the proposed improvements, the amount awarded for the taking of each lot or parcel, the names of the owner or owners of ~~the same~~ each lot or parcel, descriptions of the several lots or parcels of land upon which benefits have been assessed, the amount assessed against each lot or parcel, and the names of the owner or owners of ~~the same~~ each lot or parcel. The names of ~~all~~ owners ~~referred to herein to~~ must be obtained from the commissioners; ~~and; so far as may be or, if necessary, from the records in the office of the county treasurer.~~ The clerk shall give notice of the proceedings appropriate to inform the owners of the proposed action. The notice ~~shall~~ must designate ~~and fix~~ a place and time; at which a committee ~~therein designated~~ appointed by the board of park commissioners or of the council will meet to hear and consider; ~~from or on the part of the owner or owners of the several lots or parcels of land taken for the proposed improvement and of the several lots or parcels of land upon which benefits have been assessed; any and all objections to the making of the improvement, to the amount of damages awarded for the taking of or interference~~

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interfering with the property involved, and to the amount of the assessment for benefits to any property affected by the proceedings, and ~~any and all~~ claims of irregularities in the proceedings of the city council, the board of park commissioners, or the commissioners ~~so~~ appointed by ~~either thereof~~ the council or the board. Objections or claims may be made by or on behalf of an owner of a lot or parcel taken or interfered with or assessed for benefits because of the improvements.

Subd. 8. **SERVICE OF PUBLISHED NOTICE.** Immediately after the ~~publication of this notice is given under subdivision 7~~ and at least two weeks ~~prior to before~~ the time ~~designated for of~~ the meeting of the committee - ~~specifically designated in the notice,~~ the city clerk shall serve a copy of the notice upon each of the ~~owners~~ owner of the ~~several lots or parcels of~~ land taken for ~~this the~~ proposed improvement and of the ~~several lots or parcels of~~ or land upon which benefits have been assessed a ~~copy of the published notice.~~ The notice must be served by depositing the ~~same~~ it in the ~~post office of the city~~ United States mail, postage prepaid, in an envelope plainly bearing on its front in at least ten point type ~~no smaller than ten point~~ the words "Notice of Tax Assessments for Improvements Affecting Your Property," directed to each of the persons at the and the owner's last known place of residence, if known to address, as obtained from the records of the city clerk; otherwise as obtained from the records in the office of or the county treasurer; provided, that. The failure of ~~any an~~ owner or owners to receive the notice ~~shall does not in any wise operate to invalidate any of the proceedings covered by under~~ this chapter.

If a pedestrian mall ordinance is proposed to be adopted in connection with the an improvement under section 430.011, a copy of the proposed ordinance ~~shall must~~ be mailed with each such the notice.

Subd. 9. **WRITTEN OBJECTIONS.** Any (a) A person whose may protest the proposed improvement if the person's property is proposed to be taken, interfered with, or assessed for benefits under any of the provisions of this chapter; who and if the person: (1) objects to the making of the improvement; or who deems (2) thinks that there is any has been an irregularity in the proceedings of the city council; or on the part of the commissioners so appointed by it; by reason of which so that the award of the commissioners ought not to be confirmed; or who (3) is dissatisfied with the amount of damages awarded for the taking of or interference with the person's property; or with the amount of the assessment for benefits to any property affected by the proceedings;

(b) To protest, the person shall appear at the hearing or file with the city clerk; designated in this the published notice, at any time before the hearing or before the report and recommendation of the committee is filed, the person's (1) written objection to the making of the improvement, or (2) objection to the damages awarded or benefits assessed, or (3) claim of the irregularities, specifically designating the same; and a description of the a specific irregularity affecting specific property affected by the proceedings. Any such person and any An affected property owner or citizen or taxpayer of the city may appear at the

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hearing in support of or to object to the adoption of ~~any a~~ a pedestrian mall ordinance proposed under section 430.011 or may file written statements in support of or objecting to the adoption of ~~such the~~ the ordinance.

Subd. 10. **HEARINGS BY COUNCIL COMMITTEE.** At the time and place designated by ~~this in the~~ in the published hearing notice ~~for the hearing~~, the city clerk shall present to the committee the report of the appointed commissioners ~~so appointed together with all~~ and written objections or statements ~~so filed with the city clerk and.~~ The committee shall then consider ~~the same and those items,~~ hear the objectors; and persons appearing in favor of or against the adoption of ~~any a~~ a proposed pedestrian mall ordinance ; or their representatives, ~~in person,~~ and ~~shall adjourn the hearing from time to time as may be necessary.~~

Subd. 11. **COMMITTEE REPORT.** Within ten days ~~from after~~ after the conclusion of the hearing ~~or hearings~~ the committee shall file with the city clerk its report and recommendation on the matter ~~so submitted to it, and upon such filing.~~ At that time the city clerk shall give notice that ~~this the~~ the report and recommendation ~~has have~~ have been filed and that ~~the same, together with they and~~ the report of the commissioners; will be considered by the city council at a meeting ~~thereof to be designated in the notice, which.~~ The notice shall must be given ~~in a manner appropriate so as~~ so as to inform the persons affected and the public.

Subd. 12. **ACTION BY COUNCIL.** ~~The city council, upon~~ On the day ~~fixed set in the~~ in the notice for the consideration of the reports and recommendation, or at ~~any subsequent a later~~ a later meeting to which the ~~same reports and recommendation~~ reports and recommendation may stand over or be referred, the city council may, by resolution, annul and abandon the proceedings, ~~or may confirm or annul any or all of the awards and assessments or any or either thereof, or annul the same, or send the same them back to the commissioners for further consideration; and.~~ and. If further consideration is required, the commissioners may, ~~in such case, again meet again~~ in such case, again meet at a time and place to be designated in a notice ~~which shall be mailed by the city clerk to all interested persons; at least two weeks prior to before the meeting, and hear any further evidence that may be adduced given by interested persons, and may adjourn from time to time the meeting as necessary, and may correct, alter, or revise any mistakes in the award and assessment and alter and revise the same as they may deem just, and again report the same to the city council; who may thereupon.~~

The council may confirm or annul the ~~same new~~ new report. If it shall desire to ~~confirm~~ In confirming the awards and assessments, the city council shall ~~then~~ give its final reading to and vote on the adoption of any pedestrian mall ordinance proposed in connection with the improvement ~~pursuant to under~~ under section 430.011; ~~and.~~ If it shall be the ordinance is amended or ~~shall fail of adoption for lack of a sufficient majority of votes or otherwise; fails to be adopted any improvement instituted begun~~ in connection with such the proposed ordinance shall must either be abandoned or the awards and assessments ~~shall must~~ must be returned to the commissioners for further consideration.

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

Subd. 13. **LEVY OF ASSESSMENT; ASSESSMENT ROLL.** ~~When the city council shall confirm any award and assessment the Confirmation shall make of an award and assessment by the city council makes the award and assessment final and conclusive upon all parties interested; except as hereinafter provided; and. The city council shall proceed; at the same or at any subsequent meeting; to then levy an assessment; or such fractional part thereof as, if the city council may deem considers it necessary, a partial assessment to pay the costs of the proceedings and making the improvements therein upon the several parcels of land described in the assessment list reported by the commissioners, in accordance with the confirmed assessments so confirmed or in proportion to the assessments herein provided levied.~~

The city council may; ~~in its discretion;~~ delay the levying of these assessments ~~in any proceeding~~ under this chapter until the completion or substantial completion of the improvements proposed to be made ~~therein; and when the actual costs cost of these the improvements and proceedings have has been determined ; which. The cost may include interest at five percent per annum year on moneys actually money advanced by the city; and thereupon. The city council shall proceed to then levy assessments in the proceeding, aggregating the amount of the cost; or that portion the part of these costs as the cost the city council shall have has determined, in conformity with the provisions of this chapter, upon the several parcels of land described in the assessment list reported to the city council by the commissioners in the proceeding; and the. Assessments so levied shall be in amounts must be proportionate to and not greater than the several amounts theretofore confirmed upon such the parcels of land; respectively; by the council or by the court upon appeal in the proceeding. The city council shall ~~cause to be made; and shall adopt;~~ an assessment roll of the assessments; ~~which. The roll may be substantially in the following form; or any other form the council may adopt:~~~~

~~"The city council doth hereby assess assesses and levy upon levies on and against the several lots and parcels of land below described below the respective sums of money set against each lot or parcel. This assessment is made to defray the compensation and damages awarded for the taking of an or injury to private property; and the estimated cost of improvement; and improvements in and about the ... as shown on the plat and survey of the same on file in the office of the city clerk of the city. This levy is made conformably conforms to the report and assessment of commissioners duly appointed to make the assessment and in proportion to benefits from the improvements to accrue to the parcels and not exceeding the benefits to the assessed parcels so assessed.~~

Name of Owner, if known	Description of land Lot Block	Amount Dollars Cents
Done at a meeting of the council this ..... day of ..... A.D. 49:....		
Attest .....	.....	.....
City Clerk	Pres't of the Council	President."

**430.023 CLERK TO MAIL NOTICES IN CONDEMNATION PROCEEDINGS IN CERTAIN CASES.**

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

~~In any~~ If a city of the first class ~~which, under its charter,~~ is authorized in its charter to condemn property for public use and to appoint commissioners to assess damages or benefits ~~upon on condemned property to be taken for such use, which charter provides for notices and is required by its charter to give notice of the filing of the commissioners' report in such proceedings, the city clerk of such city shall mail give the required notice. Notice must be given by mailing it~~ to the person whose name appears on the records of the auditor of the county in which ~~such~~ the city is located as the person who last paid the taxes on the property proposed to be taken, within 48 hours after the filing of the commissioners' report ~~in such proceedings; a notice of such filing.~~

#### 430.03 ~~OBJECTIONS TO CONFIRMATION; APPEAL TO DISTRICT COURT; REAPPRAISAL; COURT OF APPEALS.~~

Subdivision 1. APPEAL PROCEDURE; BOND. ~~Any~~ A person whose property is proposed to be taken, interfered with, or assessed for benefits under ~~any of the provisions of this chapter, who deems that (1) thinks~~ there is ~~any an~~ irregularity in the council proceedings of the ~~council~~ or action of the commissioners, ~~by reason of which so that~~ the award of the commissioners ought not to be confirmed, or ~~who (2) is~~ dissatisfied with the amount of damages awarded for the taking of or ~~interference~~ interfering with the person's property or with the amount of the assessment for benefits to any property affected by the proceedings, ~~has the right to may~~ appeal from the city council's order of confirmation of the ~~city council,~~ to the district court of the county ~~at any time~~ within 20 days after the order. This appeal ~~shall~~ must be made by serving a written notice of the appeal upon the city clerk of the city. The appeal ~~shall~~ must specify the property of the appellant affected by the award and assessment, and refer to the objection filed. The appellant shall also deliver to the city clerk a bond to the city, executed by the appellant, or ~~by someone on the~~ appellant's behalf, with two sureties, ~~who shall justify in the penal sum amount of \$50 conditioned to pay all costs that may be awarded against the appellant. The city clerk shall then make out and transmit send~~ to the court administrator of the district court a copy of the commissioners' award of the commissioners, as confirmed by the council, ~~and of the order of the council confirming it, and of the objection filed by the appellant, all certified by the clerk to be true copies, within ten days after the taking of the appeal.~~

Subd. 2. MULTIPLE APPEALS. If more than one appeal is taken from ~~any an~~ an award, it ~~shall not be necessary that the city clerk need not,~~ in subsequent appeals, send ~~up~~ anything to the court administrator except a certified copy of the appellant's objections.

Subd. 3. PLEADING; ISSUES. ~~There shall be An appeal requires~~ no pleading ~~on the appeal, but,~~ The court shall determine, ~~in the first instance, (1)~~ whether there was in the proceedings any irregularity in the proceedings or omission of duty prejudicial to the appellant and specified in the appellant's written objections, ~~so that, as to the appellant, the appellant's award or assessment of the commissioners ought not to stand, and (2) whether the commissioners had jurisdiction to take action in the premises affecting the appellant.~~

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



Subd. 4. CONSOLIDATION. If ~~any a~~ person claims that ~~any a~~ pedestrian mall ordinance proposed in connection with the an improvement ~~pursuant to~~ under section 430.011; and adopted by the city council; is invalid, the person shall ~~perfect an~~ appeal ~~pursuant to the provisions of~~ under section 430.031, subject to the right of the court to consolidate for hearing any appeal taken ~~pursuant to~~ under that section with an appeal taken ~~pursuant to~~ under this section.

Subd. 5. HEARING; AFFECTED PARTIES. The case may be ~~brought on~~ for hearing ~~heard~~ on eight days' notice; at any general or special term of the court. It ~~shall have~~ has precedence ~~of over~~ other civil cases; ~~and~~. The judgment of the court ~~shall must~~ be either to confirm or annul the proceedings only as they affect the property of the appellant proposed to be taken, damaged, or assessed for benefits and described in the written objection. No appeal or writ of error may be taken from this determination ~~no appeal or writ of error shall lie~~.

Subd. 6. REAPPRAISAL. ~~In case~~ If the amount of damages awarded or assessment made for benefits is complained of by the appellant, the court shall, if the proceedings are confirmed in other respects, ~~upon confirmation~~, appoint as commissioners three disinterested freeholders; who are residents of the city; ~~commissioners~~ to reappraise the damages or benefits. The parties to the appeal ~~shall must~~ be heard by the court upon the appointment of these commissioners. The court shall fix the time and place of the meeting of the commissioners. They shall be sworn to the faithful discharge of their duties as commissioners, ~~proceed to~~ view the premises, and hear ~~the parties interested~~, with their from interested parties allegations and proofs pertinent to the question of the amount of the damages or assessments. These commissioners ~~shall be~~ are governed by the ~~same provisions in respect to~~ this chapter governing commissioners appointed by the city council, including the method of arriving at the amount of damages and the offset ~~thereto~~ of benefits to other property of the same owners; ~~and in all other material respects~~; as are provided in this chapter for the government of commissioners appointed by the city council. They shall, after the hearing and ~~after they~~ view of the premises, report to the court of their appraisal of damages or assessments of benefits in respect to the appellant. The award or assessment of these commissioners ~~shall be~~ is final unless it is set aside by the court for good cause ~~shown~~. If the report is set aside, the court may; ~~in its discretion~~; recommit it to the same commissioners or appoint a new ~~board~~ as it deems best commissioners.

Subd. 7. COSTS. The court shall allow a reasonable compensation to ~~these~~ commissioners for their services; and ~~make such~~ award of costs ~~on of~~ the appeal; including the compensation of commissioners, as it ~~deems~~ thinks just ~~in the premises~~. If the court ~~is of the opinion~~ decides that the appeal was frivolous or vexatious, it may adjudge charge double costs against the appellant.

Subd. 8. APPEAL TO COURT OF APPEALS. ~~An~~ The city or any party ~~may~~ appeal ~~may be taken~~ from the court's final order to the court of appeals ~~by the city or any party~~.

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

**Subd. 9. FILING REPORTS AND PAPERS; SERVING NOTICES.** ~~In case of proceedings conducted by the city council, all Reports and other papers shall from city council proceedings under this chapter must~~ be filed in the office of the city clerk; notices of appeal and other notices to the city ~~shall must~~ be served upon the city clerk. ~~In case of proceedings conducted by the board of park commissioners, all Reports and other papers shall from park board proceedings under this chapter must~~ be filed in the office of the secretary or other recording officer of the board. ~~All~~ notices of appeal and other notices to the city ~~shall must~~ be served upon the secretary or other recording officer of the board.

**430.031 APPEALS FROM ADOPTION OF PEDESTRIAN MALL ORDINANCES; LIMITATION OF ACTIONS.**

Subdivision 1. **LIMITATION OF ACTIONS.** No action ~~shall may~~ be commenced or maintained, and no defense interposed, questioning the validity, regularity, or legality of ~~any all or part of a~~ pedestrian mall ordinance, or ~~any part thereof or an~~ amendment thereto, ~~to it~~ adopted by ~~any a~~ city of the first class under the authority of ~~section 430.011, subdivision 3 or 13 of section 430.011~~ except by an appeal taken to the district court of the county in which ~~such the~~ city is located within 20 days after the final adoption and publication of ~~any such the~~ ordinance or amendment.

Subd. 2. **APPEALS AUTHORIZED.** ~~Such An~~ appeal ~~under this section~~ may be commenced and maintained on the grounds that ~~such the~~ ordinance is unreasonable or arbitrary or unlawfully obstructs the public use and interest in ~~the a~~ street or part thereof of ~~a street~~ named in ~~such the~~ ordinance or takes or interferes with the appellant's property without due process of law, or on any other lawful grounds; ~~and any.~~ ~~An appeal under this section may be taken by a~~ citizen or taxpayer of the city ~~shall have standing to commence and maintain such appeal, as well as any or a~~ person whose property is or may be taken or interfered with without due process of law; by reason of the enactment or enforcement of ~~such the~~ ordinance.

Subd. 3. **PROCEEDINGS ON APPEAL.** ~~Any such An~~ appeal ~~under this section~~ may be ~~taken made~~ by serving a written notice ~~upon on~~ the city clerk of the city setting forth the grounds for the appeal and ~~shall specify~~ any property which the appellant ~~shall claim~~ claims to be taken or interfered with. The city clerk shall make out and ~~transmit send~~ to the court administrator of the district court (1) a certified copy of the ordinance ~~and,~~ (2) if not previously filed, a certified copy of the award of the commissioners as confirmed by the council, and (3) the order of the council confirming the ~~same rendered award~~ in any improvement proceeding connected with the ordinance; ~~and.~~ No other pleadings ~~shall be are~~ required. No surety bond ~~shall be is~~ required except upon motion of the city ~~pursuant to the provisions of under~~ chapter 562.

Subd. 4. **EFFECT OF APPEAL.** An appeal ~~taken pursuant to under~~ this section ~~shall suspend the effectiveness of suspends~~ the ordinance until the ~~determination of the action is determined~~ by a final order of the court. The court

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shall advance the case on its calendar for trial at the earliest feasible date. An appeal from ~~any judgment entered in the a~~ district court judgment in the action shall must be taken within 30 days after notice of entry of the judgment. A party may apply to the court of appeals for an order fixing the time and manner of the hearing of the appeal; ~~whereupon;~~ the court may provide for a speedy hearing.

#### 430.04 AWARDS; ~~HOW PAID ON~~ APPEAL; ASSESSMENTS.

~~When any~~ Subdivision 1. DIRECT PAYMENT OR ASSESSMENT. If an award of damages ~~made to appellants upon any after an~~ appeal to the district court shall ~~exceed exceeds~~ the amount of the award appealed from, and ~~when any or if an~~ assessment of benefits made in respect to ~~any an~~ appellant upon appeal shall ~~be is~~ less than the amount of the assessment of benefits appealed from, the city may pay the amount of this increase ~~in the amount of the award of damages and the amount of this or decrease in the assessment of benefits may be paid by the city from the permanent improvement fund or any available city fund of the city available therefor, or. Alternatively,~~ the city council may ~~cause have the same to be amount~~ assessed upon ~~and against~~ any property benefited by the proposed improvements in addition and without prejudice to prior assessments made ~~thereon in the proceedings, and may refer referring~~ the matter to the commissioners ~~theretofore~~ appointed by the council in the proceeding or to new commissioners to be appointed by the city council. ~~These The~~ commissioners; ~~whether new or old, shall must~~ have the ~~same~~ qualifications as required of commissioners appointed by under section 430.02 and shall must take an oath to faithfully discharge their duties as commissioners ~~and.~~

Subd. 2. NOTICE OF ASSESSMENT HEARING. The commissioners shall give notice of the time when and the place ~~when and where~~ they will meet to hear persons interested and assess the amounts of the increase of awards of damages ~~and or decrease of assessments of benefits upon the on~~ land ~~and property, theretofore previously~~ assessed for these benefits; or to assess benefits on ~~lots or parcels of land not theretofore previously~~ assessed for benefits in the proceeding. The notice; as must be sent to the owners of the ~~lots or parcels of land entitled to increase of their awards upon any appeal; and as to the owners of any lots or parcels of land to be then assessed for benefits that were not so assessed in the original proceeding by the commissioners, shall. It must be given by these commissioners by depositing the same deposited~~ in the post office of the city, postage ~~postpaid paid,~~ directed addressed to each of the persons at the owners' last known place of residence, if either known to the commissioners; ~~otherwise as or obtained from the office of the county treasurer; provided that.~~ The failure of any owner to receive ~~this notice shall does not in any wise operate to invalidate any of the proceedings covered by under~~ this chapter.

Subd. 3. ASSESSMENT LIST. The commissioners shall meet; at the time and place ~~so~~ designated in their notice, hear all interested persons ~~interested,~~ and assess the amount of the increased awards of damages ~~and,~~ decreased assessments of benefits, or new and original assessments of benefits; ~~upon the on~~

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property benefited by the proposed improvements; in proportion to the benefits; ~~but in no case shall.~~ The amount of ~~this an~~ assessment ~~may not~~ exceed the actual benefit to the ~~lot or parcel of~~ assessed land ~~so assessed; and.~~ The commissioners shall ~~prepare and~~ file with the city clerk an assessment list of the ~~assessment so made by them;~~ containing a brief description of each piece of property assessed, the name names of the owners thereof, if known, and the amount assessed ~~against the same; and;~~ the city clerk shall present this list to the city council for consideration. A ~~brief minute~~ Minutes of the presentation of this assessment list to the city council ~~shall be,~~ included in the record of the proceedings of the city council, ~~which shall be held to be~~ are sufficient notice to ~~all concerned persons concerned.~~ This assessment list ~~shall must~~ lie over without action ~~thereon~~ by the city council until the ~~next~~ next regular meeting of the council ~~which will occur at least one week thereafter; later.~~ At ~~which time; that or at any a later~~ meeting ~~thereafter;~~ the city council may confirm the assessments and assessment roll; or send the ~~same them~~ back to the commissioners for further consideration and ~~report thereon.~~

Subd. 4. APPEAL. Any An interested person interested who is dissatisfied with the amount of an assessment may appeal from the confirmation of the assessment by the city council to the district court; ~~in like manner and with like proceedings as provided in~~ under section 430.03 in respect to filing objections and taking appeals from original appeals made in such proceedings from such order of confirmation. Any A decrease made in any assessments upon any an assessment on appeal may be paid by the city from the permanent improvement fund or from any available city fund of the city ~~available therefor;~~ or the city council may ~~cause have~~ the same to be amount reassessed as hereinabove provided under this chapter.

#### 430.05 RIGHT OF COUNCIL TO MAY ABANDON; EFFECT OF AWARD; PAYMENT ON AWARDS.

The city council shall have the right at any time During the pendency of any proceedings for the improvements ~~authorized in~~ under this chapter or at any time within 90 days after the final order of the court; on the last of all ~~appeals~~ appeal from ~~such those~~ proceedings, ~~to the city council may~~ set aside any or all awards and abandon all ~~such~~ proceedings as to any or all concerning parcels when if it shall deem it for thinks that is in the city's interest of the city to do so. The city council shall may also have the right to rescind and annul any a pedestrian mall ordinance adopted after being proposed pursuant to under section 430.011 within 90 days after the final order of the court on the last of all ~~appeals~~ appeal from ~~such those~~ proceedings; taken pursuant to under section 430.03 or section 430.031; and ~~in case it shall do so;~~ If it does, any improvement instituted begun in connection with such the ordinance shall be deemed is abandoned and any awards and assessments shall be deemed to have been are set aside. Such Awards, if not set aside, ~~as aforesaid;~~ shall be are a charge upon the city, for the payment of which the city pledges its faith and credit of the city shall be pledged, and shall entitle the city is entitled to immediate possession. The city council may ~~in its discretion~~ order such awards that are not set aside to be paid into the district court of the county for the use and benefit of the persons who shall be found those who are entitled thereto; ~~in which case the~~

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moneys so to them. The money paid into court shall must be paid out under order of the court upon application of interested parties ~~interested and upon such after notice as required by the court may prescribe.~~

#### 430.06 SPREADING OF ASSESSMENT INSTALLMENTS.

Subdivision 1. NUMBER OF INSTALLMENTS; COLLECTED WITH TAX. The city clerk shall ~~transmit send~~ a certified copy of the assessment roll to the auditor of the county in which ~~the assessed~~ land lies, ~~and~~. The auditor shall include five percent of the principal amount of the assessment ~~with and~~ as part of the taxes upon each parcel ~~for each year annually~~ for 20 years, ~~together with including~~ annual interest at the rate ascertained; ~~as hereinafter provided.~~ The city council and board of park commissioners may, by concurrent resolution, determine that the amount of the assessment ~~shall must~~ be collected in five or ten equal annual installments instead of 20; ~~and~~. In ~~such that~~ case the county auditor shall include a corresponding ~~percent percentage~~ of the principal amount of the assessment ~~with and~~ as part of the annual taxes ~~of each year, together with including~~ annual interest, until the ~~whole principal amount~~ is collected.

The auditor shall include in the annual taxes ~~for each year~~ one of the installments; ~~together with and~~ one year's interest upon that installment, and all subsequent installments at the same rate;. Each ~~of which installment~~, together with interest, ~~shall must~~ be collected with the annual taxes upon the land, together with like penalties and interest ~~in case of on~~ default;. All ~~of which shall these must~~ be collected with and enforced as the annual taxes and credited to the proper city fund.

Subd. 2. DISCHARGING ASSESSMENTS. Any parcel assessed may be discharged from the assessment at any time after the ~~receipt of auditor receives~~ the assessment ~~by the auditor~~ by paying all installments that have gone into the hands of the county treasurer, with accrued interest, penalties, and costs, and by paying all subsequent installments; or any parcel assessed may be discharged from the assessment by presenting certificates or bonds sold against the assessments; ~~as herein provided under this chapter,~~ sufficient in amount to cover all installments due on ~~such that~~ parcel and accrued interest, penalties, and costs, and all installments yet to accrue, by surrendering the certificates or bonds to the county treasurer for cancellation or having endorsed ~~thereon on them~~ the installments, interest, penalties, and costs.

Subd. 3. ASSESSMENTS ARE LIENS; DEFENSE. The ~~An~~ assessment ~~shall be is~~ a lien on the land ~~from the time of the making thereof~~ as against the owner and every person in any way interested in the land. The owner ~~of and any person interested in~~ the land ~~and any person interested therein~~ may defend against an assessment at the time of application for judgment in the regular proceedings for the enforcement of delinquent taxes; ~~but~~. The assessment ~~shall is~~ not ~~be deemed~~ invalid because of any irregularity; ~~provided if~~ the notices have been published substantially as required; ~~and~~. No defense ~~shall be is~~ allowed except upon the ground that the cost of the improvement is substantially less

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than the amount of the assessment, and then only to the extent of the difference between the assessment and the actual cost.

**Subd. 4. NAMING AND NUMBERING OF ASSESSMENTS.** Assessments made under this chapter ~~shall~~ must be called special street, motor vehicle parking lot, and parkway assessments of the city of ..... and numbered consecutively. When an assessment is certified by the city clerk to the county auditor, a duplicate thereof ~~shall~~ must be sent to the city comptroller; ~~and;~~ all these assessments ~~shall~~ must be sufficiently identified by name and number.

#### 430.07 METHOD OF IMPROVEMENTS; ASSESSMENTS.

Subdivision 1. **RESOLUTIONS.** The city council and park commissioners may, by concurrent resolution, or by separate resolution when acting separately, specify the method of improving any ~~such~~ street, pedestrian mall, park, or parkway under this chapter, including grading, drainage, planting, street lighting, paving, ~~curb curbing~~, ~~gutter~~, building gutters and sidewalk sidewalks, as well as installing sewer and water mains where necessary in the case of parks, ~~the~~ and installing necessary structures and apparatus for playgrounds and general park uses.

Subd. 2. **DEFINITION; PEDESTRIAN MALL IMPROVEMENT.** A "Pedestrian mall improvement ~~shall mean and include any~~" means an improvement designed and to be used primarily for the movement, safety, convenience, and enjoyment of pedestrians, whether or not a part of a street is set apart for roadway for emergency vehicles, transit vehicles ~~and,~~ or private vehicles ~~or any of them;~~ and. A "pedestrian mall improvement" may provide ~~for,~~ and include space for; seating, cafe tables, shelters, trees, flower plantings, sculptures, newsstands, telephone booths, traffic signs, kiosks, fire hydrants, street lighting, ornamental signs, ornamental lights, trash receptacles, display cases, marquees, awnings, canopies, overhead radiant heating fixtures, underground radiant heating pipes and devices, walls, bollards and chains, and ~~all such other~~ similar fixtures, equipment, facilities, and appurtenances which, in the judgment of the council, will enhance the movement, safety, convenience, and enjoyment of pedestrians and benefit the city and adjoining properties. Sidewalks on pedestrian malls may be constructed of concrete, bricks, asphalt tiles, blocks, granite sets or ~~such~~ other materials and ~~such~~ combinations of materials as the council ~~shall approve~~ approves.

Subd. 3. **COUNCIL'S POWERS.** The council may ~~in its discretion~~ narrow ~~any~~ a roadway to be ~~kept~~ and maintained in connection with ~~any~~ a pedestrian mall, may ~~cause any~~ have street vaults ~~to be~~ reconstructed or removed, may construct crosswalks at any point within a block as well as and at the ends of blocks, and may ~~cause~~ design the roadway to curve and meander within the limits of the street regardless of the uniformity of width of the street or curve or absence of curve in the center line of ~~such~~ the street to enhance the usefulness and appearance of a pedestrian mall.

Subd. 4. **ESTIMATED COST; ASSESSMENT.** The city engineer shall

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estimate the cost of each item in the an improvement separately, or by reasonable classifications detailed to the satisfaction of the city council or the park commissioners, and shall submit the estimate with the plat. In the case of property used for residential purposes only and for not to exceed no more than a four-family dwelling, these estimates shall be for may not exceed six-inch water mains and not to exceed 24-inch sewers. The city council shall examine the estimates and, after modifying, change them if necessary, find and adopt an estimate of the cost. The city council, in appointing commissioners, shall recite provide the estimate, and the commissioners shall assess the amount thereof, or so much thereof of the estimate or a part of it as shall be directed by the city council, upon such lots and parcels of land in the city as they shall deem consider specifically benefited, in proportion to such the benefits; and not exceeding the actual benefit to any a parcel; and, The commissioners shall add the same these assessments to the benefits assessed under section 430.02 and report the net result of damages or benefits as required by section 430.02; and with like proceedings thereafter. The procedure following the report must be the same as that following a report under section 430.02.

Subd. 5. **MISTAKEN ESTIMATES.** If, in any proceedings under this chapter, the actual cost of the improvement of any a street, park, or parkway in the manner herein designated is less than the estimated cost thereof; as found and adopted by it; the city council, except as otherwise provided by this subdivision, the council shall immediately cancel and annul the assessments made in the proceedings to an a total amount which, in the aggregate, shall that does not exceed such the fractional part of the total amount of the excess of estimated cost over the actual cost as shall be equivalent to the fraction obtained by dividing the total amount of the assessments by the total amount of the estimated cost.

In case If the assessments in any a proceeding have not been entirely collected, or in case if the city council deems considers that any such assessments cannot be fully collected, the city council may direct the city comptroller to retain keep in the fund in the proceeding a sum sufficient, in the judgment of an amount the city council; to thinks will cover the deficiencies in the collection of the assessments; and, The city council shall direct that the balance rest of the excess of estimated cost shall must be disposed of in the following manner. The city council shall direct the city comptroller to certify the amount of this balance to the county auditor. The auditor shall thereupon deduct the amount from the first installment of the assessment to be collected after the receipt of this the certificate. This deduction shall must be made from the assessment against each piece or parcel of property in the proportion that the excess, as certified by the city comptroller, bears to the total of the installment of the assessment. If the balance as certified, exceeds one installment, it shall also must be deducted in like manner from succeeding installments until the same it is fully deducted.

If the assessment against a piece or parcel of property has been paid in full, and the amount to be refunded does not exceed \$1, the city council may deposit the amount of the potential refund in the city's permanent improvement fund or bond redemption fund.

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If the amount to be refunded exceeds \$1, but does not exceed \$20, the city comptroller shall mail to the current owner of the property a notice stating that the refund is available. The notice ~~shall~~ must be mailed within 60 days after the city council determines the actual cost of the improvement.

If the amount to be refunded exceeds \$20 the following notice procedure ~~shall~~ must be followed. The city comptroller shall mail to the person who owned the property when the assessment was paid, at the person's last known address, a notice stating that the refund is ~~+~~ available. The notice ~~shall~~ must be mailed within 60 days after the city council determines the actual cost of the improvement. If a response is not received from the owner within ten days of the date of mailing, a second notice ~~shall~~ must be mailed. If the refund is not claimed by the person who owned the property when the assessment was paid, within 30 days of the date of mailing of the last required notice, the city council may deposit the amount of the potential refund in the city's permanent improvement fund or bond redemption fund.

Subd. 6. **PAYMENTS BY CITY.** ~~If any portion~~ some of the damages and cost of the improvement has been paid by the city, the city council shall direct the city comptroller to certify to the county auditor only that percentage part of the balance or excess of estimated cost ~~as shall~~ be equal to the percentage part of the total estimated cost of the improvement and damages ~~which that~~ has been or is assessed against benefited property. ~~No such certificate shall be directed by The council or shall not direct that a certificate be issued to the county auditor until after a report from the city engineer reports that the improvement work under any such proceeding has been completed and each item of damage or cost in the proceeding has been paid; and. This report by the city engineer shall must be made to the city council immediately upon the completion of the work in the proceeding. In any a proceeding where there is or may be an excess of estimated cost and there is or shall will be a balance in the fund in the proceeding over and above the actual cost, the city council shall be entitled to may withdraw from this the fund a percentage of the fund equal to the percentage of the cost of the improvement paid by the city; and cause have this percentage to be money deposited in the fund from which it was originally drawn or taken by the city council.~~

Subd. 7. **PERMISSIBLE IMPROVEMENTS.** ~~Any existing~~ A street, park ~~or,~~ parkway, or pedestrian mall may be improved and the expense thereof cost assessed and raised in the manner provided by under this chapter for acquiring and opening streets, parks, parkways and pedestrian malls and improving the same, including any or all of the following improvements: widening, grading, drainage, planting, pavement, sidewalks, curb and gutter, sewers and water mains, and in the case of parks, the necessary structures and apparatus for playgrounds and general park uses. ~~In case of For~~ streets or parkways exceeding over 80 feet in width wide, the resolution may, for the purpose of facilitating to facilitate connections with private property and obviating the necessity of avoid cutting or breaking into the improvements, order a double water main or a double sewer, one on either side of the street or parkway, or adopt such other another feasible arrangement or device ~~as may seem most feasible.~~

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



**430.08 ASSESSMENTS IN FIVE LIMIT ON ASSESSMENT INSTALLMENTS.**

~~Where lands are~~ If land is acquired hereunder under this chapter for streets, parks, and parkways ~~and the total cost thereof shall be for~~ less than \$3,000, the amount of the assessment ~~therefor shall for the cost must~~ be collected in ~~not more less~~ than ~~five six~~ equal annual installments.

**430.09 TITLE ACQUIRED.**

The Title obtained to land designated for park purposes and motor vehicle parking lots under this chapter ~~shall must~~ be an absolute estate in fee simple, unqualified in any way, and must vest in the city. ~~In other lands~~ The city shall take only an easement only shall be taken in other land.

**430.10 CONTROL OF STREETS, PARKS, AND PARKWAYS, HOW GOVERNED.**

When the proceedings under this chapter are completed, the streets, parks, and parkways ~~shall must~~ be governed as other streets, parks, and parkways are governed by the city council and board of park commissioners respectively; ~~but such.~~ Streets, however, may be taken by the board of park commissioners for parkways with the consent of the city council, and parkways may be taken by the city council for streets with the consent of the board of park commissioners. When proceedings for the acquisition of motor vehicle parking lots are completed, the parking lots ~~so~~ acquired ~~shall must~~ be controlled and operated by the city council. The city council shall ~~fix set~~ set parking rates for parking, which rates ~~shall be sufficient to defray so as to pay~~ the cost of operation of ~~such parking the~~ lots. All moneys ~~so~~ Money received ~~shall must~~ be deposited in a fund designated by the city council and ~~shall be~~ kept separate and ~~distinct~~ from all other city funds. Funds ~~which may be~~ available in any other another permanent or current fund may be advanced to ~~such the designated~~ fund for temporary use, and ~~shall must~~ be returned to the fund; ~~or funds;~~ from which advanced when receipts from operation permit.

**430.101 PEDESTRIAN MALLS, HOW USED; PLAN, REGULATION AND PERMITS; ADVISORY BOARDS.**

Subdivision 1. USE OF PEDESTRIAN MALLS, HOW USED. Any A pedestrian mall acquired ~~pursuant to~~ under section 430.01 or improved ~~pursuant to~~ under section 430.07 may be used, under the direction of the city council, for any purpose or activity ~~which that~~ will enhance the movement, safety, convenience, or enjoyment of pedestrians, including seating, sidewalk cafes, displays of merchandise, exhibits, advertising, telephone, transit, newsstands, bus shelters, plantings, adornment, protection against the elements, and ~~any other use or activity which in the judgment of the council will enhance the movement, safety, convenience or enjoyment of pedestrians and any other use or activity permitted by any an applicable pedestrian mall ordinance adopted pursuant to~~ under section 430.011 or other applicable law, ordinance, or power.

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Subd. 2. **REGULATION AND PERMITS.** After a pedestrian mall ordinance ~~shall have~~ has been adopted or ~~lands shall have~~ land has been acquired for a pedestrian mall, the city engineer ~~;~~ shall prepare a plan and submit it to the city council. The plan must be prepared with the assistance of the city attorney and ~~of any consulting engineer or landscape architect or other consultant employed by the council for the purpose and the assistance of any to assist an~~ advisory board appointed pursuant to under subdivision 3; ~~shall prepare and submit to the city council a plan encompassing.~~ The plan must include:

(a) (1) the initial distribution and location of movable furniture, sculpture, or pedestrian traffic control devices, flowers, and other facilities belonging to the pedestrian mall and not otherwise located or fixed by the plans and specifications;

(b) (2) the initial uses to be permitted on the mall to occupants of abutting property, ~~any~~ a transit or telephone utility, vendors, and others to serve the convenience and enjoyment of pedestrians, and the location of ~~such~~ those uses;

(c) (3) proposed regulations governing the ~~modification of such~~ charges in the distribution of movables and ~~such~~ permitted uses, the issuance of permits for ~~such~~ uses, and fees and rentals to be charged for ~~such~~ permits and uses; and

(d) (4) the operation of any lighting, heating, or other facilities in the mall, replacing flowers, and maintaining the furniture and facilities in the mall.

~~Such~~ The plan shall must be filed with the city clerk and be open to inspection ~~and.~~ The city council shall by ordinance ~~or ordinances~~ approve and adopt ~~such~~ the plan and ~~such~~ regulations; with ~~such~~ additions or modifications ~~as it shall deem~~ considers proper and after ~~such~~ notice and ~~such~~ hearings before it or its appropriate committee ~~as that~~ the council shall ~~deem~~ considers necessary or desirable. The council ~~shall have like authority to~~ may amend the plan and regulations ~~at any time and from time to time.~~ Any furniture, structure, facility, or use located or permitted ~~pursuant to~~ under the plan or a pedestrian mall improvement in the street ~~or part thereof~~ covered by the plan or improvement ~~shall is not, by reason because of such that~~ location or use, be deemed a nuisance or unlawful obstruction or condition; ~~and.~~ Neither the city nor any user acting under permit ~~shall be is~~ liable for any injury to person or property unless ~~such~~ the furniture, structure, facility, or use ~~shall be is~~ negligently constructed, maintained, or operated.

Subd. 3. **ADVISORY BOARD.** In its discretion, the city council may create and appoint an advisory board ~~or boards, of which.~~ A majority of the members ~~of each board shall must~~ be owners or occupants of properties adjoining a pedestrian mall ~~or malls~~ or their representatives; ~~to.~~ The board shall advise the city council and the city engineer ~~in connection with~~ on the acquisition, construction, and improvement of a pedestrian mall ~~or malls,~~ the making of a plan ~~therefor for the mall,~~ and the operation and maintenance ~~thereof of the mall,~~ and ~~to meet and furnish~~ make recommendations on complaints and requests of members of the public and ~~of~~ owners and occupants of adjoining property.

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Each An advisory board may elect an executive secretary, who need not be a member of the board, to keep its minutes, records, and correspondence and to communicate with the city council, the city engineer ~~and~~, other officials ~~and~~ with owners and occupants of adjoining properties, and users of the pedestrian mall ~~or malls~~.

**430.102 PEDESTRIAN MALL ANNUAL COSTS; ANNUAL IMPROVEMENT ASSESSMENTS ~~AND SPECIAL TAXES; APPEALS; COSTS DEFINED.~~**

Subdivision 1. **COSTS; ESTIMATES; CATEGORIES.** ~~Concurrently with~~ (a) When the submission of the plan; is submitted and then annually thereafter on or before June 15 ~~of each year~~, the city comptroller and city engineer shall, with the assistance of the advisory board; ~~if any~~, report to the city council: (1) an estimate of the cost of operating and maintaining and annual improvement costs to each pedestrian mall improvement district in the city for the city's next fiscal year ~~of the city~~ to be incurred under the plan then in effect; and (2) an estimate of changes in the amounts of ~~such those~~ costs ~~which that~~ would follow ~~upon the adoption of any addition or amendment to~~ result from any change in the plan recommended to or under consideration by the city council. ~~Such~~ (b) The estimate shall must be reasonably itemized and ~~shall~~ include a summary of the categories of cost properly chargeable as follows:

(a) (1) the amount ~~of such costs~~ to be charged against the general funds of the city, which ~~shall be that the~~ amount ~~which~~ the city would pay from its general funds for street maintenance and operations on a street of similar size and location but not improved as a pedestrian mall;

(b) (2) the amount ~~of costs~~ to be charged against benefited properties in the district in proportion to benefits, which ~~shall be is~~ the aggregate total of costs of annual improvements to be made in the district during the ensuing year, not exceeding the aggregate of total benefits to the assessable tracts and parcels of land in the district received from ~~such the~~ annual improvements; and

(c) (3) the amount ~~of costs~~; if any, to be specially taxed against properties in the district in proportion to the cash valuation of ~~such those~~ properties, which ~~shall be is~~ the net amount of estimated costs remaining after deducting the amounts amount to be charged to the general funds of the city pursuant to paragraph (a) under clause (1), the amount to be specially assessed pursuant to paragraph (b) under clause (2), and rentals to be received ~~on account of~~ for use of the mall by vendors.

Subd. 2. **COUNCIL APPROVAL; ~~EFFECT~~; SPECIAL TAX LEVY LIMITATION.** The council shall receive and consider ~~such the~~ estimate required in subdivision 1 and the items of cost after ~~such~~ notice and hearing before it or its appropriate committee as it ~~shall deem~~ considers necessary or expedient, and shall approve the same estimate, with such necessary amendments ~~thereto as it shall find necessary, and~~. The amounts of each item of cost estimated ~~shall be deemed are then~~ appropriated ~~and expendable for and~~ to operate, maintain, and improve the pedestrian mall during the ensuing next fiscal year. The amount of the special tax to be charged pursuant to paragraph (c) of under subdivision

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1 ~~shall, clause (3), must~~ not, however, exceed 50 cents per \$100 of assessed valuation of taxable property in the district; ~~and~~. The council shall make ~~such any necessary~~ adjustment in costs of operating and maintaining the district as ~~may be necessary~~ to keep the amount of ~~such the~~ tax within ~~such this~~ limitation.

Subd. 3. **ANNUAL IMPROVEMENT ASSESSMENT PROCEDURE; APPEALS.** When the council ~~shall have~~ has acted on the estimate of costs, the city engineer, with the assistance of the city assessor, shall prepare an assessment roll ~~setting forth~~. The roll must list separately the amounts to be specially assessed against ~~the benefited and assessable properties~~ property in the district in proportion to the benefits, descriptions of ~~such properties~~ the property, and the names of the owners of ~~such properties, so far as such names~~ the property, to the extent they are available to the engineer. The assessment roll, ~~when so prepared, shall must~~ be filed in the office of the city clerk and be ~~there~~ available there for inspection.

The city council shall meet to consider objections to the amounts of ~~such~~ special assessments at least ten days after a notice of hearing has been mailed to the named owners of ~~all the~~ tracts, parcels, and lots of property proposed to be assessed. The notice ~~shall set forth must give~~ the time ~~and~~, place, ~~and purpose~~ of the meeting, ~~and set forth the purpose of such meeting~~, but may refer to the assessment roll for further particulars. When the city council ~~shall have~~ has approved the amounts of the special assessments ~~set forth therein, in the assessment roll~~ or as ~~may be~~ has changed by ~~it them~~, the city clerk shall ~~forthwith~~ certify a copy of the assessment roll, with ~~such any~~ changes, ~~if any~~, to the county auditor to be extended on the tax lists of the county ~~and to~~. The special assessments must be collected with and in the same manner as other taxes on property for the current year.

Within 20 days after the adoption of the assessment, ~~any an~~ aggrieved person ~~aggrieved~~ may appeal to the district court as provided in section 430.03 except that ~~no commissioners shall not will~~ be appointed to consider the amount of benefits. If the court ~~shall find finds~~ that the assessment is not arbitrary, unreasonable, or made under a demonstrable mistake of fact or erroneous theory of law, it shall confirm the proceedings; ~~but~~; otherwise the court shall remand the ~~same~~ matter to the city council for reconsideration and reassessment of the benefits ~~upon like after~~ notice and hearing as ~~in the case of like those for the~~ original assessments under this subdivision. All Objections to the assessment ~~shall be deemed~~ are waived unless ~~presented on such appeal~~ appealed under this paragraph.

Subd. 4. **COSTS AND ANNUAL IMPROVEMENTS DEFINED.** For the purposes of this chapter "annual improvements" shall, with respect to pedestrian malls, ~~mean and include~~ "annual improvements" means any reconstruction, replacement, or repair of trees and plantings, furniture, shelters, and other facilities of a pedestrian mall, furnishing overhead or underground heating for snow removal or for enjoyment of pedestrians, and any other local improvement ~~which benefits~~ benefiting properties within the district. For the purposes of this

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chapter, "~~costs~~" ~~shall~~, with respect to annual improvements to and operation and maintenance of pedestrian malls, ~~mean and include~~ "costs" means costs of annual improvements; fees of consultants employed by the city council to assist in the planning of annual improvements; premiums ~~upon~~ on public liability insurance insuring the city and users of the pedestrian mall and ~~upon~~ on property damage insurance for pedestrian mall facilities; reasonable and necessary costs to the city for the time of city officials and employees spent in connection with annual improvements to and operating and maintaining a pedestrian mall and levying and collecting special assessments and special taxes ~~therefor~~; for the mall, publication costs; and ~~all~~ other costs incurred or to be incurred in connection with annual improvements to and operation and maintenance of pedestrian malls.

Subd. 5. **SPECIAL ACCOUNT; EXCESS COSTS; BALANCES.** ~~Moneys~~ Money appropriated and collected ~~on account of~~ for annual improvement costs and costs of operating and maintaining a pedestrian mall ~~shall~~ must be credited to a special account. The council ~~shall have authority to~~ may incur costs for annual improvements to or for operating and maintaining a pedestrian mall during any fiscal year, though not provided for in an approved estimate for ~~such~~ that fiscal year, if ~~in its discretion it shall deem~~ the council considers it necessary to provide for ~~such~~ annual improvements or operation or maintenance ~~prior to~~ before the succeeding fiscal year. In ~~such~~ that case, the costs incurred ~~shall~~ must be included in the next estimate of costs to be approved. Any balances to the credit of the account established for a pedestrian mall and remaining ~~unexpended~~ unspent at the end of ~~the a~~ fiscal year ~~shall~~ must be charged against the proper category of the next estimate of costs to be approved.

#### 430.11 IMPROVEMENTS, WHEN AND HOW TO BE MADE PROMPTLY.

The improvements ~~so ordered~~ shall under this chapter must be made as soon as ~~possession possible~~ possible after the land is secured; ~~and shall be made by the body which conducts~~ conducting the proceedings for acquisition.

#### 430.12 BONDS FOR IMPROVEMENTS.

The city council, ~~for the purpose of realizing the funds for making an improvement and paying damages may, from time to time as may be needed,~~ issue and sell special certificates of indebtedness; or special street or parkway improvement bonds; ~~as they may decide, which shall entitle~~ as necessary to pay for making improvements and paying damages. The holder ~~thereof~~ holders of the certificates or bonds are entitled to all ~~sums~~ amounts realized ~~upon~~ on any assessment, or, if ~~deemed advisable, in the council's discretion,~~ the holders of a series of two or more certificates or bonds have those rights against ~~any one assessment; or against the assessments in two or more different proceedings.~~ The principal and interest ~~being~~ will be payable at fixed dates out of the funds collected from the assessments, including interest and penalties, and ~~the whole of the fund or those funds is hereby~~ are pledged for the pro rata payment of the

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certificates or bonds and the related interest thereon, as they severally become due. These certificates or bonds may be made payable to the bearer, with interest coupons attached, and the city council may bind the city to make good deficiencies in the collection up to, but not exceeding, the principal and interest at the rate fixed, ~~as hereinafter provided,~~ under this section and for the time specified in section 430.06. If the city, because of this guaranty, ~~shall redeem any redeems~~ a certificate or bond, it ~~shall thereupon be~~ is subrogated to the holder's rights. For the purpose of this guaranty, penalties collected ~~shall must~~ be credited upon deficiencies of principal and interest before the city ~~shall be~~ is liable. These certificates or bonds ~~shall must~~ be sold at public sale or by sealed proposals at a meeting of ~~which after~~ at least two weeks' published notice ~~shall be given,~~ to the purchaser who will pay the par value thereof at the lowest interest rate, ~~and.~~ The certificates or bonds ~~shall must~~ be drawn accordingly, ~~but.~~

The rate of interest ~~shall in no case may not~~ may not exceed seven percent per ~~annum year,~~ payable annually or semiannually. The city clerk shall certify to the county auditor the rate of interest ~~so~~ determined at the first bond sale held for any ~~such~~ improvement under this chapter, and interest ~~shall must~~ be computed ~~upon on~~ the assessments at this annual rate, in accordance with ~~the terms~~ of section 430.06. ~~In case If~~ the rate of interest ~~so~~ determined at any subsequent bond sale for the same improvement is greater than the rate ~~so~~ determined at the first bond sale ~~therefor,~~ the difference between these rates of interest ~~shall must~~ be a general city charge.

~~In case If~~ the proceeds of ~~any~~ special certificates of indebtedness or special street or parkway improvement bonds are in excess of the amount actually necessary to make the improvements for which ~~the same they~~ were issued, or ~~in case if~~ the proceeds are not immediately required for the prosecution or completion of the improvement, ~~these the~~ proceeds may meanwhile be used by the city council for ~~the making of~~ other improvements authorized under ~~the provisions~~ of this chapter, and the ~~amount of the~~ proceeds ~~so~~ used ~~shall must~~ be replaced and made good ~~so far as may be~~ necessary from the proceeds of special certificates of indebtedness or special bonds issued for ~~the purpose of making such~~ other improvements.

Sections 474A.01 to 474A.21 apply to any ~~issuance of~~ obligations issued under this section ~~which that~~ are subject to limitation under a federal volume limitation act as defined in section 474A.02, subdivision 9, or existing federal tax law as defined in section 474A.02, subdivision 8.

#### 430.13 SCOPE OF CHAPTER.

The provisions of This chapter ~~shall apply~~ applies to all cities of the first class.

The term "city council" ~~shall be held to refer to~~ means the governing body of such cities, ~~whether so-called or called common council or otherwise a city.~~

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Any Certificates or bonds that may be issued to finance an improvement ~~shall be accounted a~~ under this chapter are part of the bonded debt of the city. In calculating the net indebtedness of the city due to the issue of ~~any such~~ certificates or bonds, there may be deducted from the gross debt of the city the amount of ~~any such~~ certificates or bonds that are payable wholly or partly from collections of special assessments levied on property benefited ~~thereby by~~ the improvements, including ~~those which are the~~ general obligations of the ~~issuing city issuing the same~~, if the city is entitled to reimbursement, in whole or in part, from the proceeds of special assessments levied upon property especially benefited by ~~such the~~ improvements.

#### 430.14 ~~POWERS~~ ADDITIONAL POWERS.

The powers herewith granted ~~shall be deemed an~~ in this chapter are in addition to ~~all other powers under existing in~~ laws and city charters and do not a repeal or ~~modification thereof~~ modify any law or city charter.

#### 430.15 PAYMENT BY CITY; GIFTS.

The A city may also, if it have has funds available from other sources, pay ~~any portion part~~ of the total cost of ~~any an~~ improvement as it ~~deems best~~ and raise the remainder ~~rest~~ by the methods provided in this chapter. ~~It~~ The city may also accept gifts to be used ~~for any such purpose~~ to pay for an improvement.

### ARTICLE 10

Section 1. Minnesota Statutes 1986, chapter 447, is amended to read:

#### 447.04 CHARITY BUREAU.

The council of ~~any a~~ statutory city now or hereafter having with a population of ~~more than~~ over 8,000, may establish and maintain a public charity bureau ~~for the purpose of providing to give~~ public charitable relief to the city's poor therein, and to assist help ex-service persons in ~~securing get~~ hospitalization, sick relief, federal aid or benefits; and ~~for the relief generally of such persons,~~ and to defray the expense thereof pay for the relief.

#### 447.045 LIQUOR DISPENSARY FUND, COMMUNITY HOSPITAL.

Subdivision 1. HOME RULE CHARTER CITY, FOURTH CLASS. ~~The council of any~~ If a home rule charter city of the fourth class operating under a home rule charter and operating operates an off-sale municipal liquor dispensary, its council may appropriate not ~~to exceed~~ more than \$125,000 from the liquor dispensary fund to ~~any duly an~~ incorporated nonprofit hospital association ~~for the construction of to build~~ a community hospital in ~~such the~~ city. The hospital must be governed by a board including two or more members of the city council and be open to all residents of the city on equal terms. ~~No such appropriation shall be made in any city where~~ The council must not appropriate the money unless the average net earnings of the off-sale municipal liquor dispensary ~~had~~

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~~not have~~ exceeded \$18,000 for the last five completed fiscal years ~~preceeding~~ before the date of ~~such~~ the appropriation.

Subd. 2. **STATUTORY CITY; ON-SALE AND OFF-SALE STORE.** If the voters of ~~any~~ a statutory city operating an on-sale and off-sale municipal liquor store, at a general or special election, vote in favor of contributing from its liquor dispensary fund toward the construction of a community hospital, the ~~city council thereof~~ may appropriate not to exceed more than \$60,000 from its ~~liquor dispensary~~ the fund to any ~~duly~~ incorporated nonprofit hospital association for the construction of to build a community hospital in the statutory city. The hospital must be governed by a board including two or more members of the statutory city council and be open to all residents of the statutory city on equal terms. This appropriation ~~shall~~ must not exceed one-half the total cost of construction of the hospital. ~~No such appropriation shall be made in any statutory city where~~ The council must not appropriate the money unless the average net earnings of the on-sale and off-sale municipal liquor store have been ~~less than~~ at least \$10,000 for the last five completed fiscal years ~~preceeding~~ before the date of ~~such~~ the appropriation.

Subd. 3. **STATUTORY CITY; OFF-SALE OR ON- AND OFF-SALE STORE.** (a) If the voters of ~~any~~ a statutory city ~~operating~~ operates an off-sale, or an on- and off-sale municipal liquor store ~~at it may provide for a vote at a general or special election~~ vote in favor on the question of contributing from the ~~village city~~ liquor dispensary fund ~~toward the construction, maintenance and operation of~~ to build, maintain, and operate a community hospital. If the vote is in favor, the city council thereof may appropriate money from the fund to an incorporated hospital association for a period of four years thereafter appropriate from its liquor dispensary fund to any duly incorporated nonprofit hospital association not to exceed \$4,000 of. The appropriation must be from the net profits or proceeds of the municipal liquor store in any one. It must not exceed \$4,000 a year for hospital construction and maintenance of any such hospital in such statutory city; and not to exceed or \$1,000 in any one a year for the operation thereof; and. The hospital shall must be open to all residents of the community on equal terms.

(b) ~~No such appropriation shall be made in any statutory city where~~ The council must not appropriate the money unless the average net earnings of the off-sale, or on- and off-sale municipal liquor store have been ~~less than~~ at least \$8,000 for the last two completed years ~~preceeding~~ before the date of ~~such~~ the appropriation.

Subd. 4. **FOURTH-CLASS CITY OPERATING STORE.** If the voters of ~~any~~ a city of the fourth class, ~~operating one or more~~ operates a municipal liquor store, ~~it may provide for a vote at a general or special election~~ vote in favor on the question of contributing from the profit in the city liquor dispensary fund toward the construction, equipping and maintenance of to build, equip, and maintain a community hospital within the city limits of the city. If the vote is in favor, the city council thereof may appropriate not to exceed more than \$200,000 from profits in its liquor dispensary the fund for the construction,

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equipping and maintenance of a community hospital in such city and the purpose. The hospital must be open to all residents of the city on equal terms.

The city may issue certificates of indebtedness in anticipation of ~~such profits~~ may be issued by any such city and payable only from profits from the operation of such store or municipal liquor stores.

Subd. 5. **STATUTORY CITY; APPROPRIATION TO HOSPITAL ASSOCIATION.** (a) The council of ~~any a~~ statutory city operating either ~~an on-sale or an off-sale a~~ municipal liquor store; ~~or both;~~ may appropriate funds from the ~~store's~~ net earnings thereof, annually, ~~not exceeding 50 percent thereof to any duly incorporated nonprofit hospital association to aid in the maintenance and cost of operation of such help maintain and operate the~~ hospital; ~~provided such.~~ The appropriation must not exceed 50 percent of the store's net earnings. Money may be appropriated if: (1) the hospital is governed by a board of directors including two or more members of the statutory city council; ~~and;~~ (2) the hospital grounds and buildings are owned by the municipality and leased to ~~such the~~ hospital association; ~~and provided~~ (3) the hospital is open to all residents of the statutory city on equal terms.

(b) ~~No such appropriation shall be made in any statutory city where~~ The council must not appropriate the money unless the average net earnings of the ~~on-sale, the off-sale, or the on-sale and off-sale~~ municipal liquor store ~~have has~~ been less than at least \$8,000 for the last five completed fiscal years ~~preceeding before~~ the date of ~~such the~~ appropriation.

Subd. 6. **STATUTORY CITY; FOURTH CLASS.** If the electors at any general or special election held in any a fourth class statutory city of the fourth class; ~~which city operates a municipal liquor store, vote in favor it may provide for a vote at a general or special election on the question of contributing from the city liquor dispensary fund an amount not to exceed more than \$15,000 per a year for each of five years toward the construction and maintenance of to build and maintain a community hospital.~~ If the vote is in favor the council may appropriate ~~not to exceed said amount each year for not to exceed five years out of said fund and may pay the same to any the money from the fund to an~~ incorporated community hospital association in the city.

Subd. 7. **STATUTORY CITY; ANY STORE.** If the voters of any a statutory city operating an on-sale; or an off-sale; or an on-sale and off-sale operates a municipal liquor store ~~at, it may provide for a vote at a general or special election vote in favor on the question of contributing from the statutory city liquor dispensary fund toward the acquisition, construction, improvement, maintenance, and operation of a community hospital.~~ If the vote is in favor, the council may appropriate ~~such sums of money as said council may~~ from time to time determine out of the net profits or proceeds of the municipal liquor store to ~~any an~~ incorporated nonprofit hospital association in the statutory city; The hospital association must be governed by a board of directors elected by donors of \$50 or more, who ~~shall~~ each have one vote; ~~and.~~ The hospital ~~shall~~ must be open to all residents of the community on equal terms.

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**447.05 HOSPITALS; HOME RULE CHARTER CITIES OF THE THIRD OR FOURTH CLASS.**

Any A home rule charter city of the third or fourth class may by resolution or ordinance approved by two-thirds of the members of the council, acquire, establish, and operate hospitals. The city may take those actions by resolution or ordinance approved by two-thirds of the city council.

**447.06 ACQUISITION OF SITES AND PROPERTY.**

Any A city mentioned in section 447.05 may acquire property by grant, gift, devise, purchase, or condemnation, or otherwise, any property necessary, convenient, or desirable for the purpose of establishing, maintaining, equipping, improving, owning, and operating any to establish, maintain, equip, improve, own, and operate a hospital, hospital site, or hospital grounds within the city limits of the city and such. The city is hereby empowered to may hold, own, and operate any a hospital, hospital grounds and sites, and other real and personal property; heretofore previously transferred or conveyed to the city; by gift, devise, bequest, or otherwise it for hospital purposes.

**447.07 RULES.**

The city council of the city is hereby empowered to make such may adopt rules and regulations for the operation of such the hospitals and to appoint such a board to manage its hospital affairs and property, as it may deem finds necessary, proper, or expedient.

**447.10 TAX LEVY FOR OPERATING AND MAINTAINING HOSPITAL.**

The governing body of any a city of the first class in this state owning a hospital; is hereby authorized to may annually levy and collect a tax not to exceed one-third of one mill on each dollar of the taxable property of the city for the purpose of operating and maintaining such to operate and maintain the hospital. The tax must not exceed one-third of one mill on each dollar of the city's taxable property.

**447.11 SPECIAL FUND.**

The proceeds of this the tax under section 447.10 shall must be placed in a separate fund in the city treasury of the city levying the same and shall constitute a special fund, kept distinct from all other funds of the city, and used only for the purpose of operating and maintaining to operate and maintain the hospital.

**447.12 APPLICATION.**

Sections 447.10 to 447.13 apply only to those cities of the first class in the state as are or may hereafter be that are governed by a charter adopted pursuant to under the Minnesota Constitution of the state of Minnesota, article IV, section 36.

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#### 447.13 POWER GRANTED ADDITIONAL TO EXISTING POWERS.

The power of levying to levy the tax provided for in sections 447.10 to 447.13 ~~shall be and is~~ in addition to all existing powers and taxes that ~~may now be levied by such the cities~~ may now levy.

#### 447.14 GIFTS AND DEVISES IN TRUST FOR FREE MEDICAL DISPENSARIES AND FREE PUBLIC LIBRARIES.

Any A city of the first class in the state, shall, in addition to all other powers ~~now possessed by it, have, and it is hereby given,~~ power and authority to may accept, in trust, gifts, devises, and bequests of money or property, whether the same be donated, devised, or bequeathed prior or subsequent to the passage of Laws 1913, chapter 232, for the purpose of founding, establishing, and maintaining to set up and run free medical dispensaries for the benefit of the poor of any such the city or of the county in which the city is situated, and for the purpose of founding, establishing, and maintaining free public libraries for the use and benefit of the inhabitants of any such city or of the county in which the city is situated residents.

#### 447.15 ADMINISTRATION OF TRUST; DESIGNATION OF TRUSTEES.

Any such A city is hereby authorized and empowered to of the first class may administer any a gift, devise, or bequest to it in trust for the purposes aforesaid in sections 447.14 to 447.16, by such officials, officers, or trustees as the donor or testator may designate for that purpose in the will or instrument creating the trust instrument and in accordance with the terms of such the will or instrument, and any. Officers or officials of any such the city or of any the county in which any such where the city is situated as may be who are designated to administer any such trust by any in the will or other instrument creating the trust in any such municipality for either of the purposes aforesaid, are hereby empowered to administer, and are hereby charged with the duty of administering, such trust shall administer it in accordance with the instru-ment's terms of the will or instrument creating the same.

#### 447.16 APPLICATION.

Sections 447.14 to 447.16 apply to cities of the first class in this state ~~now or hereafter~~ operating under a home rule charter adopted pursuant to under the Minnesota Constitution of the state of Minnesota, article IV, section 36.

#### 447.31 CREATION AND REORGANIZATION OF HOSPITAL DISTRICTS.

Subdivision 1. RESOLUTIONS. Any four or more cities and towns, however organized, except cities of the first class, may create a hospital district. They must do so by resolutions adopted by their respective governing bodies or electors create a hospital district, and any. A hospital district ~~now or hereafter~~ formed may by resolutions adopted by its hospital board and by the governing body or electors of each city and town included therein be reorganized, in

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accordance with the provisions of according to sections 447.31 to 447.37. Reorganization must be by resolutions adopted by the district's hospital board and the governing body or voters of each city and town in the district.

Subd. 2. **TERRITORY.** No city or town shall be included in a hospital district created or reorganized ~~hereunder~~ under this section unless its entire territory is included ~~therein~~ in the district and ~~unless such~~ the territory is contiguous at one or more points to the territory of one or more of the other cities or towns included.

Subd. 3. **CONTENTS OF RESOLUTION.** ~~Each such~~ A resolution shall under subdivision 1 must state that a hospital district is authorized to be created pursuant to under sections 447.31 to 447.37, ~~comprising the territory of four or more designated cities or towns, or that an existing hospital district, with reference to the cities and towns comprising the same, is authorized to be reorganized pursuant to~~ under sections 447.31 to 447.37, for the purpose of the acquisition, betterment, operation, maintenance, and administration of such in order to acquire, improve, and run hospital and nursing home facilities as ~~that~~ the hospital board shall determine ~~decides are necessary and expedient~~ in accordance with sections 447.31 to 447.37 ~~to be necessary and expedient; and each such.~~ The resolution must name the four or more cities or towns included in the district. The resolution shall must be adopted by the approving vote of not less than a two-thirds majority of the members-elect of the governing body or board acting thereon on it, or by the electors voters of the city or town in the manner herein as provided in this section.

Each resolution adopted by the governing body of a city or town shall must be published in its official newspaper and ~~shall become effective~~ takes effect 40 days after ~~such~~ publication, unless ~~within said period~~ a petition shall be for referendum on the resolution is filed with the governing body; within 40 days. A petition for referendum must be signed by qualified electors of the city or town, equal in number to at least five percent of the number of ~~such~~ electors voters voting at the last ~~preceeding~~ election of officers thereof, requesting a referendum on the resolution; in which case the same shall not become effective. If a petition is filed, the resolution does not take effect until approved by a majority of ~~such~~ qualified electors voters voting thereon on it at a regular municipal election or a special election which the governing body may call for ~~said~~ that purpose.

Alternatively, any such The resolution may also be initiated by petition filed with the governing body of the city or town, signed by at least ten percent of the number of qualified electors voters voting at the last general election; setting forth. A petition must present the text of the proposed resolution ~~proposed to be approved, and requesting~~ request an election thereon; in which case on it. If the petition is filed, the governing body shall call a special election for ~~such~~ the purpose, to be held within 30 days after the filing of ~~such~~ the petition, or may submit the resolution to a vote at ~~any~~ a regular municipal election which that is to be held within ~~said~~ the 30-day period; and. The resolution shall ~~become effective~~ takes effect if and when approved by a majority of ~~said~~ qualified

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electers ~~voters~~ voting ~~thereon~~ on it at such the election. Only one election shall be held within any given 12-month period; upon resolutions initiated by petition of at least ten percent of the qualified voters voting at the last general election. The notice of any such the election and the ballot used thereat shall must contain the text of the resolution, followed by the question: "Shall the above resolution be approved?"

Subd. 4. **FILING RESOLUTIONS.** The hospital district shall be deemed duly is created or reorganized on the effective date of the last resolution required to authorize the same it. However, certified copies of each resolution shall must be ~~transmitted~~ sent by the clerk or other recording officer of the governing body or board adopting it to the county auditor of each county in which containing territory of in the hospital district is situated; and upon receipt of all. On receiving the required resolutions, each county auditor shall file certified copies thereof of them as a public record with the county recorder of the auditor's county; and. The county auditor of the county in which the majority containing most of the population of the district is situated shall transmit send a certified copy of each resolution to the secretary of state to be filed as a public record.

Subd. 5. **SPECIAL ELECTION FOR NEW BOARD.** As soon as may be after the reorganization or creation of any a hospital district, a special election for a new board must be called. The hospital board or, in the case of a new district, the governing body of the most populous city or town included therein in the district, shall call a special the election; to. The election must be noticed, held, and canvassed in the manner herein provided for like other hospital district elections; to elect a new hospital board. The members of which shall thereupon forthwith the board qualify immediately on election and assume the powers and duties hereinafter set forth in this section.

Subd. 6. **CORPORATE POWERS OF DISTRICT.** Every A hospital district created or reorganized pursuant to under sections 447.31 to 447.37 shall be is a municipal corporation and political subdivision of the state and shall have has perpetual succession. It may contract and be contracted with; may and sue and be sued. It may but shall not be required to use a corporate seal. It may acquire such real and personal property as it may require, by purchase, gift, devise, lease, or otherwise; and needed. It may hold, manage, control, sell, convey, or otherwise dispose of such the property as its interests require.

Upon reorganization of any a district all of the, real and personal assets; real and personal; of the preexisting district, including all property the legal title to which may have been held by any county for the use and benefit of the preexisting district, shall pass to the new reorganized district; and. "Assets" includes all property in which the county has held legal title for the use and benefit of the preexisting district. All legally valid and enforceable claims and contract obligations of the preexisting district shall must be assumed by the new reorganized district; and all the. Taxable property in such the district shall be is taxable for the payment of to pay any bonded debt theretofore incurred by or on behalf of the preexisting district. Any Real, personal, or mixed properties; real, personal;

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or mixed, which ~~that~~ are acquired, owned, leased, controlled, used, or occupied by a district for the purposes of sections 447.31 to 447.37; ~~shall be~~ are exempt from taxation by the state or ~~any~~ of its political subdivisions.

#### 447.32 OFFICERS AND ELECTIONS.

Subdivision 1. **TERMS OF OFFICE.** Each hospital district shall be governed by a hospital board composed of one member elected from each city and town ~~comprising said~~ in the district and one member elected at large. ~~The A member's term of office of each member of the hospital board shall be is~~ four years and until a successor qualifies; ~~except that,~~ At the first election, however, members shall must be elected for terms to be designated set by the governing body calling the election, in such manner so that ~~one-half of half~~ the terms, as nearly as may be, shall expire on December 31 of the ~~then~~ next following even-numbered year and the remaining terms will expire two years from ~~said that date;~~ and thereafter, prior to the expiration of the term of each member, After that, before a member's term expires, a new member shall be elected for a term of four years from ~~said the~~ expiration date. Upon the death, resignation, or removal of any

If a member dies, resigns, fails to qualify, or moves from the hospital district, ~~or upon the member's failure to qualify,~~ a successor may be appointed by a majority of the remaining members of the board; ~~to.~~ The successor shall hold office until December 31 following after the next regular hospital district election; At which the election a successor shall must be elected to fill the unexpired term.

Upon annexation of any When an additional city or town is annexed to the district, in accordance with section 447.36, its governing body shall by resolution appoint a member to the board; ~~to.~~ The member shall hold office until December 31 following after the next regular hospital district election; At which the election a successor shall must be elected for a term of either two or four years, to be designated set by the hospital board in such manner as to assure so that the number of members of the board whose terms expire in any subsequent later year will not exceed one-half of the members plus one.

Subd. 2. **ELECTIONS.** Regular elections shall must be held in each hospital district at the same time ~~and,~~ in the same election precincts, and at the same polling places as general elections of state and county officers; ~~except that,~~ Alternatively, the hospital board may by resolution fix a date for an election, not later than December 7 immediately preceding just before the expiration of board members' terms; ~~and,~~ It may establish the whole district as a single election precinct or may establish two or more different election precincts and polling places for such the elections; in which event, If there is more than one precinct, the boundaries of the election precincts and the locations of the polling places shall must be defined in the notice of election, either in full or by reference to a description or map on file in the office of the clerk.

Special elections may be called by the hospital board at any time to vote on any matter required by law to be submitted to the electors; ~~and such voters.~~

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Special elections shall must be held within the election precinct or precincts and at the polling place or places designated by the board ~~or~~. In the case of the first election of officers of a new district, precincts and polling places must be set by the governing body of the most populous city or town included in the district.

Advisory ballots may be submitted by the hospital board on any question ~~which it may desire, relating to~~ it wishes, concerning the affairs of the district, but only at a regular election or at a special election required ~~to be held~~ for another purpose.

Subd. 3. **ELECTION NOTICES.** The notice of each election shall must be posted in at least one public and conspicuous place within each city and town included in the district; ~~and shall~~. It must be published in the official newspaper of the district or, if ~~such a~~ paper has not been designated, in a legal newspaper having general circulation within the district, at least one week before the election. Failure to give ~~such~~ notice ~~shall~~ does not invalidate the election of an officer of the district. Any A voter may contest a hospital district election in accordance with chapter 209; ~~and any laws amending or supplementing the same; and said sections are hereby made applicable.~~ Chapter 209 applies to hospital district elections.

Subd. 4. **CANDIDATES; BALLOTS; CERTIFYING ELECTION.** Any A person ~~desiring who wants~~ to be a candidate for member of the hospital board shall file ~~with the clerk of the city or town in which the candidate resides; not more than 60 nor less than 45 days before the election;~~ an application to be placed on the ballot as a candidate for election either as member at large or as a member representing ~~such the~~ city or town; ~~and all such where the candidate resides.~~ The application must be filed with the city or town clerk not more than 60 or less than 45 days before the election. Applications shall must be forwarded ~~forthwith~~ immediately to the clerk of the hospital district or, for the first election, the clerk of the most populous city or town.

Voting shall must be by secret ballot. The clerk shall prepare, at the expense of the district, necessary ballots for the election of officers; ~~placing thereon.~~ Ballots must contain the names of the proposed candidates for each office, and the length of the term of; each office, with and an additional blank space for the insertion of another name by the voter. The ballots shall must be marked and initialed by at least two judges as official ballots and ~~shall be~~ used exclusively at the election. Any proposition to be voted ~~upon on~~ may be printed on the ~~same ballot as that~~ provided for the election of officers or on a different ballot. The hospital board may also authorize the use of voting machines subject to the ~~applicable provisions of chapter 206; and any laws amending or supplementing the same.~~ Enough election judges may be appointed ~~in such number as deemed necessary~~ to receive the votes at each polling place; ~~and~~ They may be paid by the district at a rate ~~to be determined set~~ by the board. The election judges shall act as clerks of election, count the ballots cast, and submit them to the board for canvass.

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After canvassing the election, the board shall issue a certificate of election to the candidate for each office who received the largest number of votes cast for ~~that each~~ office. The clerk shall deliver ~~such~~ the certificate to the person entitled ~~thereto to~~ it in person or by certified mail; ~~and~~. Each person ~~so~~ certified shall file an acceptance and oath of office in writing with the clerk within 30 days after the date of delivery or mailing of the certificate. The board may fill any office ~~in the manner as~~ provided in subdivision 1 if the person elected ~~thereto~~ fails to qualify within ~~said period~~ 30 days, but ~~such~~ qualification ~~shall be~~ is effective if made ~~at any time before action~~ the board acts to fill the vacancy ~~has been taken~~.

Subd. 5. **BOARD MEETINGS.** Regular meetings of the hospital board ~~shall must~~ be held at least once a month, at ~~such a~~ a time and place ~~as the board shall sets~~ by resolution ~~determine~~, ~~and~~. Special meetings may be held:

- (1) at any time upon the call of the chair or of any two other members;
- (2) upon written notice mailed to each member three days ~~prior to~~ before the meeting; ~~or~~;
- (3) upon ~~such~~ other notice as the board by resolution may provide; ~~or~~
- (4) without notice if each member is present or files with the clerk a written consent to ~~the holding of the meeting, which~~. The consent may be filed before or after the meeting. Any action within the authority of the board may be taken by the vote of a majority of the members present at a regular or adjourned regular meeting or at a duly called special meeting, if a quorum is present. A majority of all the members of the board ~~shall constitute~~ constitutes a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 6. **OFFICERS' ELECTION.** At its first regular meeting after each regular election, the board shall elect one of their number as chair; ~~and~~. They shall also select a clerk and treasurer who may be members of the board or others; ~~as the board shall determine~~. The chair, clerk, and treasurer shall hold office; ~~as such~~; at the pleasure of the board, subject to the terms of any contract of employment ~~which that~~ the board may enter into with the clerk or treasurer.

Subd. 7. **OFFICERS' DUTIES.** The chair shall preside at all meetings of the board, shall sign orders upon the treasurer for claims allowed by the board, and shall perform all duties usually incumbent upon ~~such an~~ a presiding officer. The clerk shall record the minutes of all meetings of the board, shall countersign all orders upon the treasurer, and shall be the custodian of ~~all district~~ all district books and records ~~of the district~~. The treasurer shall be the custodian of all ~~moneys~~ money received by the district, and shall pay out money only on orders signed by the chair and clerk. Each order ~~shall must~~ state the nature of the claim for which it is issued, the name of the payee, and the fund on which it is drawn; ~~and~~. It may be ~~so~~ drawn so that when signed by the treasurer in an appropriate place it becomes a check on the depository of funds of the hospital district. In case of absence, inability, or refusal of the chair, clerk, or treasurer to execute and

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disburse orders in payment of any a claim duly allowed by the hospital board, the board may declare any of ~~said~~ their offices vacant and fill ~~the same~~ them by appointment. The board may also appoint a deputy to perform ~~any and all~~ the functions and duties of any of ~~said~~ the officers, subject to the officers' supervision and control of ~~such~~ officer.

Subd. 8. **COMPENSATION.** The members of the hospital board shall receive ~~such the~~ compensation as ~~may be~~ fixed by the board. ~~In addition~~ Each board member may also be reimbursed for ~~all~~ actual and necessary expenses incurred in the performance of official duties ~~in the same manner and amount as provided for~~ state employees, except for ~~that~~ mileage ~~which shall~~ must be compensated as ~~provided in~~ under section 471.665, subdivision 1.

#### 447.33 POWERS.

Subdivision 1. **BROAD POWERS OF DISTRICT.** Each hospital district created or reorganized under sections 447.31 to 447.37 ~~shall have all of~~ has the powers necessary and convenient ~~so that it may provide for the acquisition, betterment, operation, maintenance, and administration of such~~ to acquire, improve, and run the hospital and nursing home facilities as the hospital board ~~shall determine to be necessary and finds~~ expedient. The enumeration list of ~~specific~~ powers herein is in this section ~~does not intended to~~ restrict the power of the board ~~to~~. It may take any action ~~which, in the reasonable exercise of its discretion, is~~ reasonably necessary or convenient ~~for the furtherance of~~ to further the purpose for which the district exists; ~~and which is not otherwise prohibited by law; whether or not the power to take such action is necessarily implied from any of the powers herein expressly granted.~~

Subd. 2. **SPECIFIC POWERS.** Specifically, every district, acting through its hospital board, may:

(1) employ nursing, administrative, and other personnel, legal counsel, engineers, architects, accountants, and other qualified persons, who may be paid for their services by monthly salaries, hourly wages, and pension benefits, or by such any fees as may be agreed on;

(2) ~~Cause~~ have reports, plans, studies, and recommendations ~~to be prepared;~~

(3) lease, purchase, and contract for the purchase of real and personal property by option, contract for deed, conditional sales contract, or otherwise, and acquire real or personal property by gift;

(4) lease or construct, equip, ~~and furnish,~~ and maintain necessary buildings and grounds ~~and maintain the same;~~

(5) adopt, by resolution, rules ~~and regulations~~ for the operation and administration of ~~any and all the~~ hospital and nursing home facilities under its control, and for the admission of ~~persons thereto~~ patients;

(6) impose by resolution, and collect, charges for ~~all~~ services and facilities provided and made available by it;

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(7) levy taxes as ~~hereinafter~~ prescribed in section 447.34;

(8) borrow money and issue bonds as ~~hereinafter~~ prescribed in sections 447.345 and 447.35;

(9) ~~Procure buy liability insurance against liability of~~ for the district or its officers and employees or both, for torts committed within the scope of their official duties, whether governmental or proprietary, and against damage to or destruction of any of its facilities, equipment, or other property;

(10) sell or lease ~~any of~~ its facilities or equipment as ~~may be deemed it finds~~ expedient; and

(11) ~~Cause audits to be made of~~ have its accounts, books, vouchers, and funds audited by competent public accountants.

#### 447.331 LOANS TO STUDENTS IN MEDICAL SCHOOL OR HEALTH-RELATED EDUCATIONAL PROGRAMS.

Subdivision 1. **ELIGIBILITY; LOAN AMOUNTS.** A hospital district may provide loans for the cost of education and living expenses to students who:

(1) meet eligibility criteria established by resolution of the hospital board for the cost of education and living expenses during the time the recipient is;

(2) are enrolled in an accredited medical school or health-related educational program; if the recipient agrees; and

(3) agree in writing to practice medicine in, or accept employment with, the hospital district ~~which~~ that has provided the loans for a specified period of time.

No loan may exceed \$28,000 to any one applicant; ~~to~~. It must be paid in annual installments not to exceed \$7,000 per year. No loan may be made to any a student who is receiving a similar loan under ~~any other~~ another program authorized by law. Each recipient shall execute a note to the hospital district payable on demand for the principal amount of the loan, and for any interest agreed to by the parties. All other terms for fulfilling the obligation and of breach of the obligation ~~shall~~ must be determined by the parties and ~~shall~~ must be fully and clearly stated in the loan contract. If the recipient fails to fulfill the obligation to practice or accept employment, the principal and interest, if any, shall be payable according to the terms of the note ~~executed by the recipient~~.

Subd. 2. **SPECIAL LAW HOSPITAL DISTRICTS.** ~~The provisions of Subdivision 1 shall apply~~ applies to any a hospital district organized ~~pursuant to~~ under special law ~~and any~~. A hospital district so organized may ~~expend~~ spend funds for the purposes authorized by subdivision 1.

#### 447.34 PAYMENT OF EXPENSES; TAXATION.

Subdivision 1. **EXPENSES PAID FROM REVENUE, TAXES, AND**

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**APPROPRIATIONS; TAX LIMITS.** Expenses of ~~acquisition, betterment, administration, operation, and maintenance of all~~ acquiring, improving, and running hospital and nursing home facilities operated by ~~any a~~ hospital district, expenses incurred ~~pursuant to~~ under section 447.331, subdivision 1, and ~~the~~ expenses of organization and administration of ~~such the~~ district and of planning and financing ~~such the~~ facilities, ~~shall must~~ be paid from the revenues derived from ~~such facilities them,~~ and to the extent necessary, from ad valorem taxes levied by the hospital board ~~upon on~~ all taxable property ~~situated~~ within the district, and, to the extent determined from time to time by the board of county commissioners of any county ~~in which~~ containing territory of the district ~~is situated,~~ from appropriations made by ~~said the county~~ board in accordance with ~~the provisions~~ of section 376.08; and ~~any future laws amending or supplementing the same.~~ Any moneys Money appropriated by ~~such the~~ board of county commissioners for the ~~acquisition or betterment of to acquire or improve~~ facilities of the hospital district may be transferred in the discretion of the hospital board to a sinking fund for bonds issued for that purpose. The hospital board may agree to repay to the county any sums appropriated by the board of county commissioners for this purpose, out of the net revenues to be derived from operation of its facilities, and subject to ~~such the~~ terms ~~as may be agreed upon on.~~

No Taxes levied by a hospital district in any year, other than taxes levied for payment of bonded indebtedness, ~~shall must not~~ exceed ~~in amount~~ \$1.50 per capita of the population of the district according to the last federal census, if the amount proposed to be levied in excess of ~~such that~~ amount, when added to the levy subject to the limitations of section 275.11, of any of the municipalities within the district, would cause ~~such the~~ municipal levy to exceed the limitations of that section.

**Subd. 2. DECIDING AND CERTIFYING TAX AMOUNT.** On or before October 10 of each year the hospital board shall decide ~~upon the total~~ amount necessary to be raised from ad valorem tax levies to meet its expenses; ~~and.~~ No later than October 10 the secretary of the hospital board shall certify ~~such that~~ amount to the county auditor of each county containing territory ~~situated within~~ in the hospital district. Each of ~~said county auditors~~ county auditor shall assess and extend upon the tax rolls for ~~such the~~ year that portion of ~~said the certified~~ amount ~~which that~~ bears the same ratio to the whole amount as the assessed value of taxable property in that part of the hospital district located in the auditor's county bears to the assessed value of all taxable property in the hospital district.

**Subd. 3. TAX COLLECTION AND SETTLEMENT.** Each of ~~said county auditors~~ county auditor shall add the amount of any levy so determined to the other tax levies on property located ~~within in~~ the auditor's county and ~~within~~ the hospital district, for collection by the county treasurer with other taxes. When collected, the county treasurer shall ~~make settlement of such settle the~~ taxes with the treasurer of the hospital district in the same ~~manner way~~ as other taxes are distributed to other political subdivisions. The levies authorized by this section ~~shall be are~~ in addition to ~~any~~ other county taxes authorized by law.

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## 447.345 TEMPORARY BORROWING AUTHORITY.

Subdivision 1. **CERTIFICATES OF INDEBTEDNESS.** Any A hospital district located wholly outside the seven county metropolitan area and created or reorganized under sections 447.31 to 447.37 may borrow money ~~not exceeding a total of \$50,000 indebtedness~~ by issuing certificates of indebtedness in anticipation of taxes ~~theretofore~~ previously levied, revenues, and federal aids. Total indebtedness for the certificates must not exceed \$50,000. The proceeds ~~to~~ must be used for expenses of administration, operation and maintenance of ~~its~~ the district's hospital and nursing home facilities.

Subd. 2. **RESOLUTION.** The district may authorize and ~~effect such borrowing, borrow~~ and issue such the certificates of indebtedness on passage of a resolution specifying the amount and ~~purposes~~ reasons for ~~which it deems such borrowing is necessary which.~~ The resolution shall must be adopted by a vote of at least two-thirds of its board members. The board shall fix the amount, date, maturity, form, denomination, and other details ~~thereof of the certificates and shall fix~~ the date and place for receipt of bids for ~~the their~~ purchase thereof and. The board shall direct the clerk to give notice ~~thereof of the date and place fixed.~~

Subd. 3. **TERMS OF CERTIFICATES.** ~~No certificate shall be issued to~~ Certificates must become due and payable no later than two years from the date of issuance. Certificates ~~shall must~~ be negotiable and ~~shall~~ be payable to the order of the payee and ~~shall~~ have a definite due date but may be payable on or before ~~that the~~ due date. Certificates ~~shall must~~ be sold for ~~not less than at least~~ par and accrued interest and ~~shall must~~ bear interest at a ~~rate not to exceed not~~ more than eight percent per annum a year. Interest must be payable at maturity or ~~at such earlier time as the board may determine determines.~~ The proceeds of the current tax levies and revenues derived from the facilities of the district and future federal aids and any other district funds ~~which may that~~ become available ~~shall must~~ be applied to the extent necessary to repay ~~such the~~ certificates ~~and.~~ The full faith and credit of the hospital district ~~shall must~~ be pledged for their payment.

## 447.35 BONDS.

Each A hospital district may borrow money by the issuance of its general obligation bonds ~~for the acquisition and betterment of:~~

(1) ~~to acquire and better~~ hospital and nursing home facilities (including, ~~but without limitation,~~ the provision of an adequate working capital for a new hospital or nursing home);

(2) for ambulances and related equipment;

(3) for refunding its outstanding bonds; and

(4) for funding valid outstanding orders.

Bonds must be issued by the procedure and subject to ~~all~~ of the limitations and

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conditions set forth in chapter 475; and any future laws amending or supplementing the same, for the issuance of bonds by municipalities. Except for revenue bonds issued pursuant to under sections 447.45 through to 447.50, no bonds of a hospital district shall be deemed to be are excluded from its net debt by virtue of the provisions of section 475.51, subdivision 4, clause (5). Except as may be authorized by special law, the taxes initially levied by any district in accordance with section 475.61, for the payment of its bonds, upon property within each municipality included in the hospital district, shall must be included in computing the limitations upon the levy of such the municipality under section 275.11, as the case may be; but nothing herein shall limit here limits the taxes required by section 475.74, to be levied by the district for payment of any deficiency in its bond sinking funds. If the tax required by section 475.61 to be levied for any year of the term of a bond issue upon property within any municipality included in the district would, when added to the taxes levied by such the municipality for all purposes in the year preceeding such before the issue, exceed the limitations prescribed in section 275.11, the bonds shall must not be issued without the consent by resolution of the governing body of such municipality. An election shall be is required prior to before the issuance of any but all bonds except funding or refunding bonds. The proposition submitted at any such the election shall must be whether the hospital board shall be authorized to issue bonds of the district in a specified maximum amount, for the purpose of financing the acquisition and betterment of hospital and nursing home facilities, or of facilities of one of said other stated types if it is not proposed to use the bond proceeds for hospital and nursing home facilities of the other type. Bonds issued by a hospital district shall do not constitute indebtedness for any purpose of any county, city, or town whose territory is included therein in the district.

#### 447.36 ANNEXATION OF TERRITORY.

After the creation or reorganization of a hospital district any, a city or town whose territory is contiguous thereto to the district at any point may request ask to be annexed to the district. Such The resolution shall be is subject to referendum in the manner provided in according to section 447.31, subdivision 3. All Annexed territory annexed shall be is subject to taxation like other property in the district for the support of its facilities and for the payment of principal and interest becoming due after the annexation on bonds of the district, whether authorized or issued before or after the annexation. If the hospital district has outstanding bonds or has voted bonds which that are not yet issued, the annexation shall must not be requested unless approved by a majority of the electors of the city or town voting thereon on the question at a regular or special election. The hospital board may in its discretion condition its approval of the annexation upon the contribution, by or on behalf of the city or town to be annexed, to the capital improvement fund or the bond sinking fund of the hospital district, of such an amount as may be agreed upon as a reasonable estimate of the proportionate share, properly applicable to the annexed territory, of capital costs previously paid by the district, having regard to contributions previously made by cities and towns in the district and their inhabitants, and principal and

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interest already paid on bonds of the district. ~~Any~~ A city or town ~~requesting asking~~ to be ~~so~~ annexed may appropriate money or may authorize, issue, and sell its bonds or may accept and ~~expend~~ spend contributions from private parties for the ~~purpose of paying to pay~~ the proportionate share ~~so~~ agreed upon. Each annexation ~~shall become~~ becomes effective upon the date of adoption of the hospital board's resolution approving the ~~same~~ annexation, or on ~~such~~ subsequent a later date as ~~said the~~ resolution ~~may prescribe~~ prescribes. A certified copy of ~~each such the~~ resolution ~~shall must~~ be filed as provided in section 447.31, subdivision 4, for the resolutions creating the district.

#### 447.37 POWERS SUPPLEMENTARY.

The powers granted ~~herein~~ here are supplementary to and not in substitution for ~~any~~ other powers ~~possessed by of~~ counties, cities, and towns in connection with the acquisition, betterment, administration, operation, and maintenance of hospitals and nursing homes and the creation of hospital districts.

#### 447.38 DISSOLUTION: DETACHMENT OF TERRITORY.

Subdivision 1. **DISSOLUTION; PETITION TO BOARD; BOARD'S ORDER.** ~~Any~~ A hospital district created or reorganized pursuant to the ~~provisions of~~ sections 447.31 to 447.37, may be dissolved upon a petition to the hospital district board ~~stating~~. The petition must state the grounds for dissolution; ~~as hereinafter provided~~, be signed by an authorized officer or officers of the governing body of any city or town included in the hospital district pursuant to a resolution of the governing body, and ~~containing~~ contain a proposal for distribution of the remaining funds of the district, if any, among the related governmental subdivisions. Except as otherwise provided, a proceeding for dissolution ~~shall be is~~ governed by the provisions ~~now or hereafter in force~~ relating to proceedings for the organization of districts, so far as applicable. If the board determines that the conditions ~~requisite~~ for the creation of the district no longer exist ~~therein~~, that all indebtedness of the district has been paid, and that all property of the district except funds has been disposed of, it may make an order dissolving the district and directing the distribution of its remaining funds, if any, among the related governmental subdivisions on ~~such a~~ basis as the board determines to be just and equitable, to be specified in the order. Certified copies of the order for dissolution ~~shall must~~ be transmitted and filed as provided for an order creating a district. The clerk of the board shall also transmit a certified copy of the order to the treasurer of the district; ~~who~~. The treasurer shall thereupon then distribute the remaining funds of the district as directed by the order, and ~~shall be is~~ responsible for ~~such the~~ funds until ~~so~~ distributed.

Subd. 2. **DETACHMENT OF CITY OR TOWN; SAME PROCEDURE.** ~~Any~~ A city or town included in ~~such the~~ hospital district may be detached ~~therefrom from~~ it by the same procedure as provided for dissolution of the district. On detachment, all taxable property within the detached area ~~shall remain~~ remains subject to taxation for any existing bonded indebtedness of the district to ~~such the same~~ extent as it would have been ~~subject thereto~~ if not

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detached, and shall also remain. The property remains subject to taxation for any other existing indebtedness of the district incurred for any purpose beneficial to ~~such~~ the area to such the extent as the board may determine to be finds just and equitable, to be specified in the order for detachment. The proper officers shall levy further taxes on ~~such the~~ property accordingly.

#### 447.41 ESTABLISHMENT AND OPERATION; WITHDRAWAL.

Except cities of the first class, ~~any a~~ city or town or any combination thereof ~~of them~~ acting jointly may, by resolution or ordinance, establish and operate a nursing home or home for the aged, and may acquire by lease not to exceed 15 years, gift, devise, purchase, condemnation, or otherwise any property necessary or desirable and suitable for ~~such that~~ purpose. The governing body of the city or town may by ordinance make ~~such rules or regulations~~ and provide for ~~such a~~ managing board as it deems necessary ~~for the operation of such to operate the~~ nursing home or home for the aged. ~~Any A~~ city or town may withdraw its interest in ~~any a~~ nursing home or home for the aged with the consent of each city and town having an interest ~~therein in the home~~, and shall be paid ~~such whatever~~ sums as may be agreed upon, having due regard for its investment in ~~such the~~ home.

#### 447.42 ESTABLISHMENT AND OPERATION OF COMMUNITY RESIDENTIAL FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

Subdivision 1. **ESTABLISHMENT.** Notwithstanding any provision of Minnesota Statutes to the contrary, any city, county, town, or ~~any~~ nonprofit corporation approved by the commissioner of human services, or any combination thereof ~~of them~~ may establish and operate a community residential facility for persons with mental retardation or related conditions, as defined in section 252.27, subdivision 1.

Subd. 2. **ADMINISTRATION.** Community residential facilities established under this section may be administered by a nonprofit corporation, by the political subdivision establishing ~~same them~~ or by a community mental health-mental retardation board organized under sections 245.66 and 245.67.

Subd. 3. **FACILITIES.** The premises and facilities for any community residential facility may be acquired by purchase, lease, or gift and may be established and operated in connection with existing public and private facilities and institutions.

Subd. 4. **FINANCING.** Any political subdivision, as described in subdivision 1, may use ~~unexpended~~ unspent funds, accept gifts, grants, and subsidies from any lawful source, or ~~make application~~ apply for federal funds and may use ~~such moneys or the money for a community residential facility.~~ It may also grant or loan ~~such moneys the money~~ the money to any nonprofit corporation approved by the commissioner of human services for the establishment and operation of a community residential facility.

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

Subd. 5. **LICENSING.** ~~Any~~ A community residential facility established and operated ~~pursuant to~~ under this section ~~shall~~ must meet all applicable licensure standards established by the commissioners of health and human services.

#### 447.45 HOSPITALS AND NURSING HOMES, FACILITIES FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS; FINANCING AND LEASING.

Subdivision 1. **FINANCING.** ~~Any~~ A county, city, or hospital district, except cities of the first class and counties ~~in which are located any~~ containing cities of the first class; ~~is authorized, in addition to and not in substitution for any other power granted to it by law, to~~ may issue revenue bonds by resolution ~~or resolutions~~ of its governing body to finance the acquisition and betterment of hospital, nursing home and related medical facilities; ~~or any of them, including but without limitation. This power is in addition to other powers granted by law and includes, but is not limited to,~~ the payment of interest during construction and for a reasonable period ~~thereafter~~ after construction and the establishment of reserves for bond payment and for working capital; ~~and,~~ In connection with the acquisition of any existing hospital or nursing home facilities, ~~to~~ the city, county, or district may retire outstanding indebtedness incurred to finance the construction of the existing facilities.

Subd. 2. **POWERS OVER SPECIAL FACILITIES.** ~~Any~~ With respect to facilities for the care, treatment, and training of persons with mental retardation or related conditions, a county or city; ~~including cities of the first class and counties in which are located any cities of the first class, is authorized to~~ may exercise with respect to facilities; ~~including health care facilities; for the care, treatment and training of persons with mental retardation or related conditions; as defined in section 252.27, subdivision 1; all of the powers conferred by in sections 447.45 to 447.50 with the same force and effect as if these facilities were hospital or nursing home facilities within the meaning of sections 447.45 to 447.50. "County or city" includes cities of the first class and counties containing them. "Related conditions" is defined in section 252.27, subdivision 1.~~

#### 447.46 REVENUE PLEDGED.

The county, city, or hospital district may pledge and appropriate the revenues to be derived from its operation of the facilities, except related medical facilities, to pay the principal and interest on the bonds when due and to create and maintain reserves for that purpose, as a first and prior lien on ~~all such~~ the revenues or, if so provided in the bond resolution, as a lien ~~thereon~~ on the revenues subordinate to the current payment of a fixed amount or percentage or all of the costs of the operation; ~~administration; and maintenance of~~ running the facilities.

#### 447.47 LEASE OF FACILITIES TO NONPROFIT OR PUBLIC CORPORATION.

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



The county, city, or hospital district may lease hospital or nursing home facilities ~~for operation, administration, and maintenance~~ to be run by a non-profit or public corporation as a community hospital or nursing home. The facilities must be open to all residents of the community upon on equal terms; and. ~~The city, county, or district~~ may lease related medical facilities to any person, firm, association, or corporation, ~~upon such rentals and for such term, at rent and on conditions agreed. The term of the lease must not exceeding exceed 30 years, and subject to such other conditions as may be agreed.~~ The lessee may be granted an option to renew the lease; for an additional term ~~or terms upon such conditions and rentals;~~ or to purchase the facilities at such price, as may be ~~provided.~~ The terms of renewal or purchase must be provided for in the lease. The county, city, or hospital district may by resolution ~~or resolutions~~ of its governing body ~~undertake and agree to pay to the lessee of hospital or nursing home facilities annually, and to include in each annual budget and tax levy for hospital and nursing home purposes, a fixed compensation determined by the governing body to be just and proper compensation for services agreed to be performed by the lessee in the operation, administration, and maintenance of running the hospital or nursing home as a community facility; for any investment by the lessee of its own funds or funds granted or contributed to it in the construction or equipment of the hospital or nursing home; and for any auxiliary services to be provided or made available by the lessee through other facilities owned or operated by it; and.~~ Services other than those provided for in the lease agreement may be compensated at such rates as may be agreed ~~subsequently upon later.~~ Any ~~The~~ lease agreement entered into hereunder shall must, however, require the lessee to pay a net rental not less than the amount required to pay the principal and interest when due on all revenue bonds issued by the county, city, or hospital district ~~for the acquisition and betterment and refinancing of to acquire, improve, and refinance~~ the leased facilities, and to maintain the agreed revenue bond reserve. ~~No such~~ The lease agreement shall must not grant the lessee an option to ~~the lessee~~ to purchase the facilities at a price less than the amount of the bonds ~~so~~ issued and interest accrued ~~thereon on them,~~ except bonds and accrued interest paid from ~~such the~~ net rentals before the option is exercised.

To the extent that ~~any such the~~ facilities are leased ~~in accordance with under~~ this section for use by persons in private medical or dental or similar practice or ~~in any other private business,~~ a tax on ~~the privilege of such that~~ use shall must be imposed ~~in the same amount and to the same extent just~~ as though the user were the owner of ~~such the~~ space and shall. It must be collected ~~in the manner as~~ provided in section 272.01, subdivision 2.

#### 447.48 SECURITY FOR BONDS; PLEDGE OF CREDIT FOR BONDS.

In the issuance of bonds ~~hereunder~~ the revenues or rentals shall must be pledged and appropriated by resolution for the use and benefit of bondholders generally, or may be pledged by the execution of an indenture or other appropriate instrument to a trustee for the bondholders; ~~and.~~ The site and facilities, or any part ~~thereof of them,~~ may be mortgaged to ~~such the~~ trustee. The governing

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body shall have power to make and may enter into any and all covenants with the bondholders or trustee ~~which are determined by it to be that it finds~~ necessary and proper to assure the marketability of the bonds, the completion of the facilities, the segregation of the revenues or rentals and ~~any~~ other funds pledged, and the sufficiency ~~thereof of funds~~ for the prompt and full payment of ~~all~~ bonds and interest. The bonds shall be deemed to be payable wholly from the income of a revenue-producing convenience within the meaning of section 475.58, ~~except that unless~~ the governing body ~~may also pledge pledges to the their~~ payment of the bonds and interest the full faith and credit of the county, city, or hospital district. In this event, unless otherwise provided by law, the bonds ~~shall may~~ not be issued unless approved by a majority of the electors voting on the question at an legal election ~~duly called and held~~.

#### 447.49 MISCELLANEOUS PROVISIONS.

All Bonds issued ~~pursuant to under~~ sections 447.45 to 447.50 ~~shall must~~ be issued and sold as provided in chapter 475; ~~but~~. If the bonds do not pledge the credit of the county, city, or hospital district as provided in section 447.48, the governing body may negotiate their sale without advertisement for bids. They shall not be included in the net debt of any municipality ~~included therein~~, and ~~shall are~~ not be subject to interest rate limitations, as defined or referred to in sections 475.51 and 475.55.

#### 447.50 REFUNDING BONDS.

Any A county, city, or hospital district ~~is authorized to may~~ issue bonds ~~hereunder under this chapter~~ by resolution ~~or resolutions~~ of its governing body to refund ~~any~~ bonds issued for the purposes ~~herein~~ stated in this chapter.

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### ARTICLE 11

#### Section 1. EFFECT OF CHANGES.

The legislature intends the changes in the language of the laws amended by articles 1 to 10 of this act to be exclusively changes in style. No change is intended to alter or shall be construed by a court or other authority to alter the meaning of a law.

If a section is amended by articles 1 to 10 of this act and also by another act adopted in 1987 and the amendments cannot be edited together in the next publication of Minnesota Statutes, the amendment by articles 1 to 10 of this act shall be without effect.

Approved May 26, 1987

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