

CHAPTER 108

COUNTY AND JUDICIAL

108.01 DEFINITION.

HISTORY. 1923 c. 72 s. 1; G.S. 1923 s. 6697; M.S. 1927 s. 6697.

In the absence of statutory authorization, a county ditch may not be abandoned after it has been established and paid for. 1936 OAG 97, June 9, 1936 (148a-6).

108.02 APPLICATION.

HISTORY. 1923 c. 72 s. 2; G.S. 1923 s. 6698; M.S. 1927 s. 6698.

108.03 DITCH BONDS ISSUED BY COUNTY BOARDS.

HISTORY. 1923 c. 72 s. 3; G.S. 1923 s. 6699; 1925 c. 198 s. 1; M.S. 1927 s. 6699.

County treasurer may pay ditch bonds notwithstanding the fact that the fund is not sufficient to pay all the bonds past due. OAG Feb. 12, 1933.

108.04 AUDITOR TO MAKE CERTIFICATE.

HISTORY. 1923 c. 72 s. 4; G.S. 1923 s. 6700; M.S. 1927 s. 6700.

The county auditor's certificate must state in detail what part of the entire loan is applicable to each county. OAG Jan. 19, 1937, (38e).

108.05 PURPOSE; OBLIGATION.

HISTORY. 1923 c. 72 ss. 5, 6; G.S. 1923 ss. 6701, 6702; M.S. 1927 ss. 6701, 6702.

108.06 DAMAGES ARISING AFTER CONSTRUCTION.

HISTORY. 1905 c. 230 s. 39; G.S. 1913 s. 5565; G.S. 1923 s. 6728; 1927 c. 133 s. 1; M.S. 1927 s. 6728.

No appeal lies from a judgment establishing a county ditch. *Aspelin v. County of Murray*, 115 M 440, 132 NW 749.

The act of a municipal corporation while engaging in improving one of the public highways thereof in diverting the flow of surface waters from their natural channel constitutes a trespass for which the municipality is liable without regard to the question of negligence. The liability in such case is the same as that of the individual who commits a like act. *Kiefer v County of Ramsey*, 140 M 43, 167 NW 362.

Notwithstanding the fact that the contract provided that openings should be left in the spoil bank wherever designated, the county is not liable to a landowner for damages caused by the construction of the ditch adjacent to his land without openings in the bank. *Defel v County of Clay*, 169 M 79, 210 NW 626.

Note: This section was repealed by Laws 1925, Chapter 415, Section 113, but it was revived by amendment, Laws 1927, Chapter 133, Section 1.

108.07 TIME LIMITATION.

HISTORY. 1927 c. 133 s. 2; M.S. 1927 s. 6728-1.

108.08 CHANGES.

HISTORY. 1907 c. 138 s. 1; G.S. 1913 s. 5601; 1917 c. 350 s. 1; G.S. 1923 s. 6765; M.S. 1927 s. 6765.

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108.09 ENGINEER'S REPORT; HEARING; NOTICE OF HEARING; ORDER.

HISTORY. 1907 c. 138 s. 2; G.S. 1913 s. 5602; G.S. 1923 s. 6766; M.S. 1927 s. 6766.

An order of the county board establishing the county ditch is res judicata, and proceeding cannot be collaterally attacked; and, when the engineer's plans and specifications are confirmed by a valid order, they become final and may be modified only as provided by law. *Slosser v. Gt. Northern*, 218 M 327, 16 NW(2d) 47.

108.10 ACCEPTANCE BY ENGINEER.

HISTORY. 1907 c. 138 s. 3; G.S. 1913 s. 5603; G.S. 1923 s. 6767; M.S. 1927 s. 6767.

108.11 MODIFICATION OF CONTRACT BY AGREEMENT.

HISTORY. 1907 c. 138 s. 4; G.S. 1913 s. 5604; G.S. 1923 s. 6768; M.S. 1927 s. 6768.

108.12 DITCHES IN COUNTIES CREATED AFTER PETITION; TRANSFER OF FILES.

HISTORY. 1911 c. 278 s. 1; G.S. 1913 s. 5608; G.S. 1923 s. 6772; M.S. 1927 s. 6772.

108.13 OBLIGATIONS AND CONTRACTS; MONEYS EXPENDED.

HISTORY. 1911 c. 278 s. 2; G.S. 1913 s. 5609; G.S. 1923 s. 6773; M.S. 1927 s. 6773.

108.14 DITCHES PARTLY IN COUNTIES CREATED AFTER PETITION; TRANSFER OF FILES; PROCEEDINGS; APPORTIONMENT.

HISTORY. 1911 c. 278 s. 3; G.S. 1913 s. 5610; G.S. 1923 s. 6774; M.S. 1927 s. 6774.

108.15 OUTSTANDING BONDS; ASSUMPTION OF INDEBTEDNESS; AGREEMENT.

HISTORY. 1911 c. 278 s. 4; G.S. 1913 s. 5611; G.S. 1923 s. 6775; M.S. 1927 s. 6775.

108.16 DUTIES OF AUDITORS; PAYMENTS.

HISTORY. 1911 c. 278 s. 5; G.S. 1913 s. 5612; G.S. 1923 s. 6776; M.S. 1927 s. 6776.

108.17 ASSESSMENTS; LIENS; TRANSCRIPTION OF RECORDS; DUTIES OF OFFICERS OF NEW COUNTY.

HISTORY. 1911 c. 278 s. 6; G.S. 1913 s. 5613; G.S. 1923 s. 6777; M.S. 1927 s. 6777.

108.18 SERVICES AND COMPENSATION OF OFFICERS.

HISTORY. 1911 c. 278 s. 7; G.S. 1913 s. 5614; G.S. 1923 s. 6778; M.S. 1927 s. 6778.

The county attorney appearing for his county in a judicial ditch proceeding, who secured a reduction of the assessment and an increase in the amount of damages allowed, has no claim on the ditch fund for his services but must rely on his own county for compensation. *In re Judicial Ditch No. 10*, 161 M 400, 201 NW 621.

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108.19 DITCHES IN ADJOINING COUNTIES DIVIDED AFTER PETITION IN CERTAIN CASES.

HISTORY. 1911 c. 278 s. 8; G.S. 1913 s. 5615; G.S. 1923 s. 6779; M.S. 1927 s. 6779.

108.20 REASSESSMENT WHERE ASSESSMENT DECLARED INVALID; PRELIMINARY STATEMENT.

HISTORY. 1911 c. 113 s. 1; G.S. 1913 s. 5616; G.S. 1923 s. 6780; M.S. 1927 s. 6780.

108.21 BENEFITS ASSESSED.

HISTORY. 1911 c. 113 ss. 2, 3; G.S. 1913 ss. 5617, 5618; G.S. 1923 ss. 6781, 6782; M.S. 1927 ss. 6781, 6782.

108.22 HEARING; NOTICE.

HISTORY. 1911 c. 113 s. 4; G.S. 1913 s. 5619; G.S. 1923 s. 6783; M.S. 1927 s. 6783.

108.23 COUNTY BOARD MAY CHANGE DAMAGES OR BENEFITS; AMENDED PRELIMINARY STATEMENT; NOTICE.

HISTORY. 1911 c. 113 s. 5; G.S. 1913 s. 5620; G.S. 1923 s. 6784; M. S. 1927 s. 6784.

108.24 APPEAL TO DISTRICT COURT.

HISTORY. 1911 c. 113 s. 6; G.S. 1913 s. 5621; G.S. 1923 s. 6785; M.S. 1927 s. 6785.

108.25 CONSOLIDATION OF CASES.

HISTORY. 1911 c. 113 s. 7; G.S. 1913 s. 5622; G.S. 1923 s. 6786; M.S. 1927 s. 6786.

108.26 TABULAR STATEMENT; DUTY OF AUDITOR; LIEN.

HISTORY. 1911 c. 113 s. 8; G.S. 1913 s. 5623; G.S. 1923 s. 6787; M.S. 1927 s. 6787.

108.27 INTEREST.

HISTORY. 1911 c. 113 s. 9; G.S. 1913 s. 5624; G.S. 1923 s. 6788; M.S. 1927 s. 6788.

108.28 PAYMENT BY PUBLIC OR CORPORATE ROADS OR RAILROADS.

HISTORY. 1911 c. 113 s. 11; G.S. 1913 s. 5626; G.S. 1923 s. 6790; M.S. 1927 s. 6790.

The town cannot furnish funds for road drainage for the benefit of private individuals to drain water from their land. The procedure authorized by statute must be followed. OAG Feb. 29, 1944 (442a-10).

Private individuals cannot obtain repayment for expense of draining roads when the drainage is for the benefit of their own land. Such drainage of the road must be authorized through the usual statutory procedure. OAG Feb. 29, 1944 (442a-10).

108.29 PAYMENT OF DAMAGES.

HISTORY. 1911 c. 113 s. 12; G.S. 1913 s. 5627; G.S. 1923 s. 6791; M.S. 1927 s. 6791.

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108.30 WARRANTS TO BE FULL COMPENSATION.

HISTORY. 1911 c. 113 s. 13; G.S. 1913 s. 5628; G.S. 1923 s. 6792; M.S. 1927 s. 6792.

108.31 COMPENSATION OF COUNTY BOARD; EXPENSES; BENEFITS.

HISTORY. 1911 c. 113 s. 14; G.S. 1913 s. 5629; G.S. 1923 s. 6793; M.S. 1927 s. 6793.

108.32 RECORDS AS EVIDENCE.

HISTORY. 1911 c. 113 s. 15; G.S. 1913 s. 5630; G.S. 1923 s. 6794; M.S. 1927 s. 6794.

108.33 AMOUNTS PREVIOUSLY PAID TO BE CREDITED; APPEAL.

HISTORY. 1911 c. 113 s. 16; G.S. 1913 s. 5631; G.S. 1923 s. 6795; M.S. 1927 s. 6795.

108.34 TAXATION; REDUCTION IN ACREAGE BY DITCH TO BE CONSIDERED.

HISTORY. 1913 c. 208 s. 1; G.S. 1913 s. 5633; G.S. 1923 s. 6797; M.S. 1927 s. 6797.

108.35 ADDITIONAL ASSESSMENTS FOR INTEREST ON DITCH BONDS.

HISTORY. 1941 c. 173.