

las, for public purposes, all of the following described real estate situated in Douglas county, Minnesota, to wit:

All of Lots Fifteen (15), Sixteen (16), Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24), Twenty-five (25), and Twenty-six (26), all in Block B of Johnson's Island Addition to the City of Alexandria, Minnesota.

Sec. 2. The consideration to be paid by the city of Alexandria to the state of Minnesota for the real estate conveyed hereunder shall be that sum as determined by the commissioner of highways and the commissioner of administration, which sum shall be credited to the trunk highway fund.

Sec. 3. Notwithstanding any other law or charter provision to the contrary, the city of Alexandria may consummate the purchase contemplated herein by action of its city council.

Sec. 4. This act is effective upon approval by the city council of the city of Alexandria, and upon compliance with Minnesota Statutes, Section 645.021.

Approved May 18, 1967.

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CHAPTER 568—H. F. No. 86

[Coded in Part]

*An act relating to the organization and administration of the state government; abolishing the office of surveyor general; transferring the powers and duties of the surveyor general to the commissioner of conservation; prescribing the powers and duties of state officers and employees in connection therewith; transferring and re-appropriating money; amending Minnesota Statutes 1965, Sections 90.01, Subdivision 4; 90.031, Subdivision 5; 90.061, Subdivision 8; 90.151, Subdivisions 2, 4, and 6; 90.181, Subdivision 1; 90.191, Subdivision 3; 90.221; 90.251; 90.281; 90.41, Subdivision 1; repealing Minnesota Statutes 1965, Sections 90.27 and 90.28, and Minnesota Statutes 1965, Chapter 91.*

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

Section 1. **[90.005] Surveyor general; transfer of functions to conservation commissioner.** *Subdivision 1. The powers and duties vested in, or imposed upon, the surveyor general relating to timber scaling under Minnesota Statutes 1965, Chapter 91, or any*

**Changes or additions indicated by italics, deletions by strikeout.**

*other laws are transferred to, vested in, and imposed upon the commissioner of conservation. The office of surveyor general as heretofore constituted is abolished.*

*Subd. 2. Whenever in any other general law, or resolution of the legislature heretofore or hereafter adopted, or in any document, record, or proceeding authorized by the same, any word or phrase is used in reference to or descriptive of the surveyor general, or officer or employee thereof, or their respective activities, whose powers, duties, or activities are by this act assigned or transferred to the commissioner of conservation, such word, phrase, or reference shall hereafter be deemed to refer to, include, and describe the commissioner of conservation, or his officers or employees.*

*Subd. 3. The department of conservation is deemed and held to constitute a continuation of the office of the surveyor general as to powers and duties of the surveyor general transferred by this act, and not a new authority for the purpose of succession to all rights, powers, duties and obligations of the surveyor general as constituted at the time of such assignment or transfer, with the same force and effect as if such powers and duties had not been assigned or transferred.*

*Subd. 4. Any proceeding, court action, prosecution, or other business or matter undertaken or commenced before the passage of this act by the surveyor general, and still pending on the effective date of this act, may be conducted and completed by the commissioner of conservation in the same manner and under the same terms and conditions and with the same effect as though it were undertaken or commenced and were conducted or completed by the surveyor general before the transfer.*

*Subd. 5. The surveyor general, in regard to powers and duties assigned and transferred by this act to the conservation commissioner, shall transfer and deliver to the commissioner all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control. The commissioner of conservation is hereby authorized to take possession of such property.*

*Subd. 6. All unexpended funds appropriated to the surveyor general for the purpose of any of its functions, powers, or duties which are transferred by this act to the commissioner of conservation, are hereby transferred to the commissioner. Where unexpended funds appropriated to the surveyor general for the purposes of any of its functions, powers or duties are changed by this act so that the functions, powers or duties are in more than one department, commission, or agency, the commissioner of administration shall allocate*

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*the appropriation between the state departments, commissions, or agencies concerned, and the funds so allocated are reappropriated therefor.*

*Subd. 7. Except as otherwise provided in this act, all persons in the classified service and employed by the surveyor general for the purposes of any of its functions, powers or duties which are transferred by this act to the commissioner of conservation are hereby transferred to such commissioner. The positions of all persons in the unclassified service and employed by the surveyor general for the purposes of powers or duties which are transferred by this act to the commissioner of conservation are hereby abolished.*

*Subd. 8. All acts or parts of acts now in effect inconsistent with the provisions of this act are hereby repealed, superseded, modified or amended so far as necessary to give full force and effect to the provisions of this act.*

*Subd. 9. In compiling the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall make such changes in terminology as may be necessary to record the powers or duties which are transferred by this act from the surveyor general to the commissioner of conservation. The revisor of statutes shall delete from Minnesota Statutes 1965, Section 15A.09, the reference to the state surveyor general of logs and lumber and his salary.*

Sec. 2. Minnesota Statutes 1965, Section 90.01, Subdivision 4, is amended to read:

Subd. 4. ~~“Surveyor general”~~ *“Scaler” means the state surveyor general of logs and lumber or his agent an employee of the department designated by the commissioner to measure cut forest products.*

Sec. 3. Minnesota Statutes 1965, Section 90.031, Subdivision 5, is amended to read:

Subd. 5. The executive council may appoint one or more agents to gather evidence in any action brought by the state or to investigate the correctness of any state appraiser's *or scaler's* report or to ascertain whether any timber proposed to be sold is subject to sale, or whether any trespass has been committed on state lands, and may send such agent to examine such timber or lands. Such agents of the executive council, independently of the commissioner, ~~and~~ state appraisers, *or scalers* shall report, in writing, to the governor, and the money necessary to defray expenses in connection therewith shall be paid upon verified accounts from any funds available for the expenses of the executive council.

**Changes or additions indicated by italics, deletions by strikeout.**

Sec. 4. Minnesota Statutes 1965, Section 90.061, Subdivision 8, is amended to read:

Subd. 8. State appraisers are empowered, with the consent of the commissioner, to perform any of the duties of the surveyor general when designated or requested to do so by the surveyor general; *scaling*, and generally to supervise the cutting and removal of timber on or from state lands so far as may be reasonably necessary to insure compliance with the terms of the permits or other contracts governing the same and protect the state from loss.

The form of appraisal reports, records, and notes to be kept by state appraisers shall be as the commissioner prescribes. ~~The reports of any state appraiser made while performing the duties of the surveyor general shall be filed in the office of the surveyor general and shall be admissible in evidence by certified copy or otherwise to the same extent and have the same effect in all respects as though made by the surveyor general.~~

Sec. 5. Minnesota Statutes 1965, Section 90.151, Subdivision 2, is amended to read:

Subd. 2. The permit shall state the amount of timber estimated for cutting on the land, the estimated value thereof, and the price at which it is sold per thousand feet, per cord, per piece, or by whatever description sold, and shall specify the state marks to be used thereon. These marks shall be M I N and the permit number. The permit shall provide that the permit holder shall plainly place the specified marks upon the end of each piece of timber cut, except that in the case of piles of pulpwood or other cordwood, a sufficient number of pieces shall be marked to adequately identify the timber before such timber is scaled by the surveyor general. It shall provide that, in case of any failure to place these marks upon any state timber, the state shall have the right to take possession of the same wherever found. The permit shall provide that the permit holder may place his own mark upon timber cut under the permit but only after the state marks have been first plainly placed thereon; that no mark of the permit holder shall in any way encroach upon, obliterate, or obscure the state marks or any part thereof; and that no figure shall be used by the permit holder as his mark or any part thereof. Christmas trees or other decorative material need not be marked with M I N and the permit number but any landing or concentration of such material shall be posted with a notice listing the permit holder's name, permit number, and description of the land from which the material was cut.

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Sec. 6. Minnesota Statutes 1965, Section 90.151, Subdivision 4, is amended to read:

Subd. 4. The permit shall provide that all timber sold or designated for cutting shall be cut without damage to other timber; that the permit holder shall remove all timber authorized to be cut under the permit; that timber sold by board measure but later determined by the commissioner not to be convertible into board measure shall be paid for by the piece or cord according to the size, species, or value of each piece or cord, as may be determined by the commissioner; that the permit holder shall pay to the state the permit price for all timber authorized to be cut, including timber which he fails to cut and remove together with all fees of the surveyor general for sealing same; that the permit holder shall notify the surveyor general at least 15 days before any cutting is done; at which time such cutting will begin, and at least 15 days before any timber is removed from the land; at which date the removal will begin. The permit holder shall notify the commissioner, as provided by law.

Sec. 7. Minnesota Statutes 1965, Section 90.151, Subdivision 6, is amended to read:

Subd. 6. The permit shall provide that the permit holder shall not start cutting any state timber nor clear building sites nor logging roads until the commissioner *has been notified and* has given prior approval to such cutting operations.

Sec. 8. Minnesota Statutes 1965, Section 90.181, Subdivision 1, is amended to read:

90.181 **Statement of auction timber cut.** Subdivision 1. ~~Upon receipt of the surveyor general's report of the amount of timber cut under any permit;~~ *At least annually and upon completion of the cutting,* the commissioner shall transmit to the permit holder a statement of the amount due therefor by the terms of the permit. Any partial payment received may be applied to any items on the statement as the commissioner shall determine.

When actual cash in the full amount due under such permit for the timber shall have come into the state treasury in payment thereof, but not before, the title to the timber shall pass from the state.

Sec. 9. Minnesota Statutes 1965, Section 90.191, Subdivision 3, is amended to read:

Subd. 3. All timber products, except hardwood pulpwood, boughs for decorative purposes and fuelwood as specified by the commissioner of conservation, cut under the provisions of this chap-

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ter, shall be scaled by the ~~surveyor general~~ and the final settlement for the timber cut shall be made on this scale. The purchaser shall dispose of slashings according to law, shall be liable under this chapter in trespass for cutting or unnecessarily injuring any timber not included within the sale made to him under this section, and shall be otherwise subject to all the laws governing the sale and removal of state timber, so far as applicable.

Sec. 10. Minnesota Statutes 1965, Section 90.221, is amended to read:

**90.221 Timber sales records.** The commissioner shall keep timber sales records, including the description of each tract of land from which any timber is sold; the date of the report of the state appraisers; the kind, amount, and value of the timber as shown by such report; the date of the sale; the price for which the timber was sold; the name of the purchaser; the number, date of issuance and date of expiration of each permit; the date of any assignment of the permit; the name of the assignee; the dates of the filing and the amounts of the respective bonds by the purchaser and assignee; the names of the sureties thereon; the amount of timber taken from the land; the date of the report of the ~~surveyor general~~ scaler and state appraiser; the names of the ~~deputy surveyor general~~ scaler and the state appraiser who scaled the timber; and the amount paid for such timber and the date of payment.

Sec. 11. Minnesota Statutes 1965, Section 90.251, is amended to read:

**90.251 Timber scaling; reports; fees; settlement of claims.** Subdivision 1. *The commissioner shall institute such scaling and check scaling procedures for state timber as will protect the interests of the state. This will include the assignment of a trained timber scaling specialist in the classified service to be responsible for check scaling and to develop scaling and check scaling techniques and standards. Such scaling and check scaling techniques and standards will be approved by the commissioner and public examiner. Check scaling will also be accomplished by other forestry supervisors with such reports forwarded to the timber scaling specialist. The timber scaling specialist will report any scaling deficiencies or trespass to the commissioner. Any such deficiencies requiring the attention of the public examiner, attorney general, or state executive council will be forwarded to these offices by the commissioner. The surveyor general shall scale All timber cut on lands in the charge of the commissioner, except as expressly provided otherwise in this chapter shall be scaled. No timber sold at public auction may be scaled until such timber is first marked with M I N and the permit number. All scaling*

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shall be done upon the land from which the timber was cut; provided that the ~~commissioner~~ *state appraiser*, subject to the approval of the ~~surveyor general~~ *commissioner*, may designate in writing to a permit holder another location where such timber may be scaled, counted or measured; all logs scaled shall be numbered consecutively, and the number of each entered upon the minutes of the scaler; such allowance shall be made for defects therein as will make such timber equivalent to merchantable timber. No state timber shall be removed from the land where it was cut until it has been so scaled or counted except as herein provided. Any person removing any such timber from the land where it was cut, or from the place designated by the ~~commissioner~~, before it has been so scaled or counted shall be guilty of a gross misdemeanor.

Subd. 2. The ~~surveyor general~~ *scaler or state appraiser* shall make separate reports to the commissioner of all such timber scaled, covering the respective permits. Each report shall describe the land on which the timber was cut, and state the names of the persons cutting, the person for whom the cutting was done, and the person hauling the timber, the quantities of each kind or species of timber, the state marks used thereon, the number of logs or pieces, and the total number of feet or other units of measurement, as the case may be. Each report shall state specifically whether the scaling was done upon the land from which the timber was cut; whether the cutting was done without unnecessary waste or damage; whether all timber cut has been scaled and reported and whether the timber has been marked with the state marks specified in the permit. ~~The surveyor general shall report to the commissioner any trespass coming to his knowledge.~~

Subd. 3. Final examination of lands and timber covered by any permit shall be made by a state appraiser at or subsequent to the expiration of the permit or of any cutting season and it shall be the duty of such appraiser to ascertain and report the amount of any timber covered by the permit and cut and left on the land or left standing thereon, but he shall not report any timber cut and left which has been marked as scaled by the ~~surveyor general~~. This final report of the state appraiser shall be deemed supplementary to the report of the ~~surveyor general~~ and shall have the same force and effect as though made by the ~~surveyor general~~.

Subd. 4.—Except as otherwise provided, the fees and charges of the ~~surveyor general~~ for scaling state timber shall be as provided in sections 91.01 and 91.07. The ~~surveyor general~~ may bring any legal action or proceeding against any permit holder or the surety on his bond, or both, to enforce payment of any amount due him from

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~~the permit holder. The liability of the permit holder and his predecessors and successors in interest and their respective sureties for payment of the fees and charges of the surveyor general shall be coextensive with their liability for payment of the purchase price of timber sold under the permit.~~

Subd. 5: 4. No state timber shall ever be scaled for or on behalf of the state by any person except a state appraiser, or the ~~surveyor general or one of his deputies~~ *scaler except as provided otherwise by the commissioner*. No scale, count, measurement, or estimate of state timber officially made and reported by any state appraiser or the ~~surveyor general or any deputy surveyor general~~ *scaler* shall ever be changed or altered by any other person, nor superseded or set aside in any manner except as expressly provided in this chapter. Reappraisals of unsold state land or timber may be made when deemed advisable by the commissioner. Except as herein expressly provided and as generally authorized by sections 10.11 and 10.12, no claim of the state for timber from state lands shall ever be settled or discharged for less than the full amount thereof as shown by the scale or estimate of the ~~surveyor general~~ *scalers*, or of state appraisers, as the case may be.

Sec. 12. Minnesota Statutes 1965, Section 90.281, is amended to read:

**90.281 Re-scales, recounts and re-estimates.** Upon complaint of any interested permit holder questioning the accuracy of any scale, count, or estimate of timber made by any state appraiser, the commissioner at his discretion or of his own motion when no complaint is pending may cause a re-scale, recount, or re-estimate thereof to be made jointly by any two or more state appraisers, which when made shall supersede and for all purposes take the place of the original scale, count, or estimate, if and only when it varies more than ten percent from the original. As a condition precedent to the making of any such re-scale, recount, or re-estimate upon the complaint of any person the commissioner at his discretion may require such person to make available such sum of money as the commissioner deems necessary for the actual expenses thereof and to forfeit the same to the state if such re-scale, recount, or re-estimate does not vary more than ten percent from the original. All such forfeited money shall be paid into the state treasury and credited to the fund or account from which the expenses of such re-scale, recount, or re-estimate were paid.

~~In like manner, upon the same conditions, and with like effect the surveyor general may in his discretion cause a re-scale to be made of any timber originally scaled by a deputy surveyor general.~~

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Sec. 13. Minnesota Statutes 1965, Section 90.41, Subdivision 1, is amended to read:

90.41 **State appraiser and scaler; violations, penalties.** Subdivision 1. Any ~~surveyor general or deputy surveyor general scaler~~ or state appraiser who shall accept any compensation or gratuity for his services as such from any other source except the state of Minnesota, or who shall make any false report, or insert in any such report any false statement, or shall make any such report without having examined the land embraced therein or without having actually been upon the land, or omit from any such report any statement required by law to be made therein, or who shall fail to report any trespass committed upon state lands which has come to his knowledge, or who shall conspire with any other person in any manner, by act or omission or otherwise, to defraud or unlawfully deprive the state of Minnesota of any land or timber, or the value thereof, shall be guilty of a felony. Any material discrepancy between the facts and the scale returned by any such person scaling timber for the state shall be considered prima facie evidence that such person is guilty of violating this statute.

No such appraiser or ~~surveyor general or deputy surveyor general scaler~~ who has been once discharged for cause shall ever again be appointed. This provision shall not apply to resignations voluntarily made by and accepted from such employees.

Sec. 14. **Repealer.** *Minnesota Statutes 1965, Sections 90.27 and 90.28, and Minnesota Statutes 1965, Chapter 91, are repealed.*

Sec. 15. **Effective date.** *This act is effective July 1, 1967.*

Approved May 18, 1967.

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#### CHAPTER 569—H. F. No. 100

[Coded in Part]

*An act relating to vehicles; prohibiting certain conduct in the driving, operation, or control of vehicles upon the ice of waters of the state; amending Minnesota Statutes 1965, Sections 169.121, Subdivision 1, and 169.13, by adding a new subdivision thereto.*

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

Section 1. Minnesota Statutes 1965, Section 169.121, Subdivision 1, is amended to read:

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