

Levee Safety and Improvements Bill House File 711

Last Action:

Final Action

May 03, 2023

An Act relating to levee and drainage districts, by providing for the repair or reconstruction of levees, making appropriations, and including effective date provisions.

**Fiscal Services Division
Legislative Services Agency**

NOTES ON BILLS AND AMENDMENTS (NOBA)

Available online at www.legis.iowa.gov/publications/information/appropriationBillAnalysis

LSA Staff Contacts: Justus Thompson (515.725.2249)

FUNDING SUMMARY

Appropriates \$5.0 million of State wagering tax receipts to the Levee Improvement Fund each year from FY 2024 through FY 2028. Page 2, Line 1

NEW PROGRAMS, SERVICES, OR ACTIVITIES

Creates a Levee Improvement Fund within the Department of Homeland Security and Emergency Management. Moneys in the Fund are appropriated to the Department for the exclusive purpose of supporting the Office of Levee Safety and the Flood Mitigation Board. Page 2, Line 11

Creates the Office of Levee Safety within the Department and requires the Office, in cooperation with the Board, to assist communities benefiting from a levee, including levee districts, and to evaluate methods to best carry out the purpose of Iowa Code chapter 418A. Page 4, Line 3

Requires the Office, in cooperation with the Iowa Geological Survey, to conduct a statewide analysis of the condition of the State's levees and identify each levee requiring repair or reconstruction based on a scale adopted by the Office which assigns a number based on the levee's level of critical need. Page 4, Line 21

Creates a Levee Improvement Program to provide for the repair or reconstruction of those levees requiring immediate capital expenditure in order to reduce and manage a hazardous event. Page 5, Line 12

Specifies that the Department may enter into a [28E](#) agreement to administer the Program on behalf of the Board. Page 5, Line 32

Requires the Department to prepare and submit a Statewide Levee Assessment Report to the Governor and General Assembly by January 5 of each year. Page 6, Line 1

STUDIES AND INTENT

Specifies that the purpose of Iowa Code chapter 418A is to reduce and manage risks associated with a hazardous event caused by a levee's inadequate design, structural performance, or operational control. Page 3, Line 34

EFFECTIVE DATE

The Bill takes effect upon enactment. Page 6, Line 25

House File 711 provides for the following changes to the Code of Iowa.

Page #	Line #	Bill Section	Action	Code Section
2	1	1	Add	8.57.5.f.(1).(0e)
2	11	2	New	8.57D
3	13	3	New	418A.1
3	33	4	New	418A.2
4	3	5	New	418A.3
4	21	6	New	418A.4
5	10	7	New	418A.5
5	34	8	New	418A.6
6	22	9	New	456.15

<p>2 1 Section 1. Section 8.57, subsection 5, paragraph f, 2 2 subparagraph (1), Code 2023, is amended by adding the following 2 3 new subparagraph division: 2 4 NEW SUBPARAGRAPH DIVISION (0e) (i) For the fiscal year 2 5 beginning July 1, 2023, and for each fiscal year thereafter 2 6 through the fiscal year beginning July 1, 2027, of the wagering 2 7 tax receipts received pursuant to sections 99D.17 and 99F.11, 2 8 the next five million dollars shall be deposited in the levee 2 9 improvement fund created in section 8.57D.</p>	<p>Appropriates \$5,000,000 of State wagering tax receipts to the Levee Improvement Fund each year from FY 2024 through FY 2028.</p>
<p>2 10 (ii) This subparagraph division is repealed July 1, 2028.</p>	<p>Repeals standing appropriations from State wagering tax receipts to the Levee Improvement Fund on July 1, 2028.</p>
<p>2 11 Sec. 2. NEW SECTION 8.57D LEVEE IMPROVEMENT FUND ——— 2 12 CREATION ——— APPROPRIATIONS.</p>	
<p>2 13 1. A levee improvement fund is created within the department 2 14 of homeland security and emergency management created pursuant 2 15 to section 29C.5 which shall be under the control of that 2 16 department.</p>	<p>Creates a Levee Improvement Fund within the Department of Homeland Security and Emergency Management.</p>
<p>2 17 2. The levee improvement fund shall consist of moneys 2 18 deposited in the fund pursuant to section 8.57, subsection 5, 2 19 paragraph “f”, subparagraph (1), subparagraph division (0e); 2 20 appropriations made to the fund; and transfers of interest, 2 21 earnings, and moneys from other funds as provided by law.</p>	<p>Establishes that the Fund will consist of State wagering taxes deposited and other funds provided by law.</p>
<p>2 22 3. The levee improvement fund shall be separate from the 2 23 general fund of the state and the balance in the fund shall 2 24 not be considered part of the balance of the general fund of 2 25 the state. However, the fund shall be considered a special 2 26 account for the purposes of section 8.53, relating to generally 2 27 accepted accounting principles.</p>	<p>Specifies that the Fund is separate from the State General Fund and considered a special account.</p>
<p>2 28 4. a. Moneys in the levee improvement fund are appropriated 2 29 to the department of homeland security and emergency management 2 30 for the exclusive purpose of supporting all of the following: 2 31 (1) The office of levee safety, including to conduct a 2 32 statewide analysis of the condition of the state’s levees as 2 33 provided in section 418A.4.</p>	<p>Specifies that moneys in the Fund are appropriated to the Department for the exclusive purpose of supporting the following:</p> <ul style="list-style-type: none"> • The Office of Levee Safety, including to conduct a statewide analysis of the condition of the State’s levees. • The Flood Mitigation Board, including to award cost-share

<p>2 34 (2) The flood mitigation board, including to award 2 35 cost-share moneys to levee districts pursuant to the levee 3 1 improvement program as provided in section 418A.5.</p>	<p>moneys to levee districts pursuant to the Levee Improvement Program.</p>
<p>3 2 b. Not more than five percent of moneys in the levee 3 3 improvement fund shall be available to defray expenses incurred 3 4 in administering chapter 418A by the department, including the 3 5 office of levee safety and flood mitigation board.</p>	<p>Specifies that not more than 5.00% or \$250,000 of moneys in the Fund will be available for the administrative expenses of the Department, including the Office of Levee Safety and Flood Mitigation Board.</p>
<p>3 6 5. a. Notwithstanding section 8.33, moneys in the levee 3 7 improvement fund that remain unencumbered or unobligated at 3 8 the close of a fiscal year shall not revert but shall remain 3 9 available for the expenditure for the purposes designated.</p>	<p>Specifies that moneys in the Fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but will remain available for the expenditure for the purposes designated.</p>
<p>3 10 b. Notwithstanding section 12C.7, subsection 2, interest or 3 11 earnings on moneys in the fund shall be credited to the fund.</p>	<p>Specifies that interest earned on moneys in the Fund must be credited to the Fund.</p>
<p>3 12 6. This section is repealed July 1, 2028.</p>	<p>Repeals Iowa Code section 8.57D on July 1, 2028.</p>
<p>3 13 Sec. 3.NEW SECTION 418A.1 DEFINITIONS.</p>	
<p>3 14 For the purposes of this chapter, unless the context 3 15 otherwise requires:</p>	<p>Creates new definitions.</p>
<p>3 16 1. "Board" means the flood mitigation board created in 3 17 section 418.5.</p>	
<p>3 18 2. "Department" means the department of homeland security 3 19 and emergency management created in section 29C.5.</p>	
<p>3 20 3. "Hazardous event" means an event caused by a levee's 3 21 uncontrolled or controlled release of surface water in a manner 3 22 that may injure humans and animals or damage real and personal 3 23 property used for agricultural, commercial, industrial, 3 24 residential, or public purposes.</p>	
<p>3 25 4. "Levee district" means a levee district, including a 3 26 subdistrict, established pursuant to chapter 468.</p>	
<p>3 27 5. "Office" means the office of levee safety created in 3 28 section 418A.3.</p>	
<p>3 29 6. "Program" means the levee improvement program established 3 30 pursuant to section 418A.5.</p>	
<p>3 31 7. "Survey" means the Iowa geological survey created in 3 32 section 456.1.</p>	

3 33 Sec. 4.NEW SECTION 418A.2 PURPOSE.

3 34 The purpose of this chapter is to reduce and manage
3 35 risks associated with a hazardous event caused by a levee's
4 1 inadequate design, structural performance, or operational
4 2 control.

Specifies that the purpose of Iowa Code chapter 418A is to reduce and manage risks associated with a hazardous event caused by a levee's inadequate design, structural performance, or operational control.

4 3 Sec. 5.NEW SECTION 418A.3 OFFICE OF LEVEE SAFETY.

4 4 1. An office of levee safety is created within the
4 5 department.

Creates the Office of Levee Safety within the Department of Homeland Security and Emergency Management (HSEMD).

4 6 2. a. In administering this chapter, all of the following
4 7 apply:

Requires the Office to cooperate with the Flood Mitigation Board and the Iowa Geological Survey.

4 8 (1) The office shall cooperate with the flood mitigation
4 9 board.

4 10 (2) The office and the board shall cooperate with the Iowa
4 11 geological survey.

4 12 b. The office and board may cooperate with other state
4 13 and federal agencies, including the United States army corps
4 14 of engineers and the federal emergency management agency,
4 15 administering the national levee safety program, as provided in
4 16 33 U.S.C.ch.46.

Allows the Office and the Board to cooperate with other State and federal agencies, including the United States Army Corps of Engineers and the Federal Emergency Management Agency, administering the National Levee Safety Program.

4 17 3. The office, in cooperation with the board, shall assist
4 18 communities benefiting from a levee, including levee districts.
4 19 The office, in cooperation with the board, shall evaluate
4 20 methods to best carry out the purpose of this chapter.

Requires the Office, in cooperation with the Board, to assist communities benefiting from a levee, including levee districts, and to evaluate methods to best carry out the purpose of Iowa Code chapter 418A.

4 21 Sec. 6.NEW SECTION 418A.4 STATEWIDE ANALYSIS.

4 22 1. The office of levee safety, in cooperation with the Iowa
4 23 geological survey, shall conduct a statewide analysis of the
4 24 condition of the state's levees. The office and survey shall
4 25 identify each levee requiring repair or reconstruction based on
4 26 a scale adopted by the office which assigns a number based on
4 27 the levee's level of critical need. The office shall consider
4 28 all of the following:

Requires the Office, in cooperation with the Iowa Geological Survey, to conduct a statewide analysis of the condition of the State's levees and identify each levee requiring repair or reconstruction based on a scale adopted by the Office which assigns a number based on the levee's level of critical need. The Office must consider all of the following:

4 29 a. Deficiencies in the construction, maintenance, and
4 30 operation of each levee in a levee district.

- Deficiencies in the construction, maintenance, and operation of each levee in a levee district.
- The amount of capital expenditures required for the repair or reconstruction for each levee in a levee district.

<p>4 31 b. The amount of capital expenditures required for the 4 32 repair or reconstruction for each levee in a levee district. 4 33 c. Payment obligations creating legal indebtedness incurred 4 34 by the levee district, including those evidenced by bonds, 4 35 warrants, certificates, contracts, or judgments. 5 1 d. The current total revenue collected by the levee 5 2 district, and the budgeted revenue ceiling of the levee 5 3 district based on a maximum assessment rate for classified 5 4 lands used to maintain the levee as apportioned to each owner 5 5 of such land.</p>	<ul style="list-style-type: none"> • Payment obligations creating legal indebtedness incurred by the levee district, including those evidenced by bonds, warrants, certificates, contracts, or judgments. • The current total revenue collected by the levee district, and the budgeted revenue ceiling of the levee district based on a maximum assessment rate for classified lands used to maintain the levee as apportioned to each owner of such land.
<p>5 6 2. The governing body of each levee district shall assist 5 7 the office in conducting the analysis for the governing body's 5 8 levee district.</p>	<p>Requires the governing body of each levee district to assist the Office in conducting the analysis for the governing body's levee district.</p>
<p>5 9 3. This section is repealed July 1, 2028.</p>	<p>Repeals Iowa Code section 418A.4 on July 1, 2028.</p>
<p>5 10 Sec. 7. NEW SECTION 418A.5 FLOOD MITIGATION BOARD — LEVEE 5 11 IMPROVEMENT PROGRAM.</p>	
<p>5 12 1. A levee improvement program is established to provide 5 13 for the repair or reconstruction of those levees requiring 5 14 immediate capital expenditure in order to reduce and manage 5 15 a hazardous event. The program shall be administered by the 5 16 flood mitigation board acting in cooperation with the office of 5 17 levee safety.</p>	<p>Creates a Levee Improvement Program to administer and fund the repair or reconstruction of levees that require immediate capital expenditure to reduce and manage a hazardous event. The Program must be administered by the Board in cooperation with the Office.</p>
<p>5 18 2. In administering the program, the board, acting in 5 19 cooperation with the office, shall award moneys to levee 5 20 districts applying for assistance on a cost-share basis. The 5 21 amount of cost-share moneys contributed by the board shall not 5 22 exceed fifty percent of the estimated cost or fifty percent of 5 23 the actual cost of the improvement, whichever is less.</p>	<p>Requires the Board, acting in cooperation with the Office, to award moneys to levee districts applying for assistance on a cost-share basis. The amount of cost-share moneys contributed by the Board shall not exceed 50.00% of the estimated cost or 50.00% of the actual cost of the improvement, whichever is less.</p>
<p>5 24 3. a. The department shall provide for the publication and 5 25 submission of applications for an award of cost-share moneys 5 26 under the program. The board, in cooperation with the office, 5 27 shall approve or disapprove the applications based on criteria 5 28 established by the board.</p>	<p>Requires the Department to provide for the publication and submission of applications for an award of cost-share moneys under the Program. The Board, in cooperation with the Office, must approve or disapprove the applications based on criteria established by the Board.</p>
<p>5 29 b. (1) The board shall consider the scale number assigned 5 30 to the levee by the office as provided in section 418A.4.</p>	<p>Requires the Board to consider the scale number assigned to the levee by the Office.</p>

5 31	(2) This paragraph is repealed July 1, 2028.	Repeals Iowa Code section 418A.5(3)(b) on July 1, 2028.
5 32 5 33	4. The department may enter into a chapter 28E agreement in order to administer the program on behalf of the board.	Specifies that the Department may enter into a 28E agreement to administer the Program on behalf of the Board.
5 34 5 35	Sec. 8.NEW SECTION 418A.6 DEPARTMENT — STATEWIDE LEEVE IMPROVEMENT REPORT.	
6 1 6 2 6 3 6 4	1. The department of homeland security and emergency management shall prepare and submit a statewide levee assessment report to the governor and general assembly not later than January 5 of each year.	Requires the Department to prepare and submit a Statewide Levee Assessment Report to the Governor and General Assembly by January 5 of each year.
6 5 6 6 6 7	2. a. (1) The statewide levee assessment report must include a summary of the condition of levees in each levee district.	Requires the Statewide Levee Assessment Report to include a summary of the condition of levees in each levee district.
6 8	(2) This paragraph is repealed July 1, 2028.	Repeals Iowa Code section 418A.6(2)(a) on July 1, 2028.
6 9 6 10 6 11 6 12	b. The statewide levee assessment report must identify those levees having the highest level of critical need of repair or reconstruction and the budget of a levee district to finance the repair or reconstruction.	Requires the Statewide Levee Assessment Report to identify those levees having the highest level of critical need of repair or reconstruction and the budget of a levee district to finance the repair or reconstruction.
6 13 6 14 6 15 6 16	3. The statewide levee assessment report must include the results of efforts to repair or reconstruct levees using cost-share moneys awarded to the governing bodies of levee districts under the levee improvement program.	Requires the Statewide Levee Assessment Report to include the results of efforts to repair or reconstruct levees using cost-share moneys awarded to the governing bodies of levee districts under the Levee Improvement Program.
6 17 6 18 6 19 6 20 6 21	4. The statewide levee assessment report must include a summary of future plans to administer the program. The statewide levee assessment report may include recommendations for additional funding and legislation necessary to carry out the purpose of this chapter.	Requires the Statewide Levee Assessment Report to include a summary of future plans to administer the Program. The Statewide Levee Assessment Report may include recommendations for additional funding and legislation necessary to carry out the purpose.
6 22	Sec. 9.NEW SECTION 456.15 LEVEES.	
6 23 6 24	The Iowa geological survey shall assist the office of levee safety as provided in chapter 418A.	Requires the Iowa Geological Survey to assist the Office of Levee Safety.

6 25 Sec. 10. EFFECTIVE DATE. This Act, being deemed of
6 26 immediate importance, takes effect upon enactment.

The Bill takes effect upon enactment.