

3 ninety-two (455.92), four hundred fifty-five point ninety-four (455.94),  
 4 four hundred fifty-five point ninety-five (455.95), four hundred fifty-  
 5 five point ninety-six (455.96), four hundred fifty-five point ninety-  
 6 seven (455.97), and four hundred fifty-five point ninety-eight (455.98),  
 7 Code 1946, for appeals contemplated by said sections.

Approved April 1, 1947.

## CHAPTER 245

### FLOOD CONTROL

S. F. 400

AN ACT to enable levee and drainage districts heretofore organized under the laws of this state, to cooperate with any agency of the United States government engaged in flood control or reclamation projects which will benefit the lands in such districts and to cooperate toward the construction of improvements by such agencies.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Chapter four hundred fifty-five\* (455) of the 1946  
 2 Code of Iowa is amended by adding the following:

1 SEC. 2. Whenever Government of the United States acting through  
 2 its proper agencies or instrumentalities will undertake the original  
 3 construction of improvements or the repair or alteration of existing  
 4 improvements which will accomplish the purposes for which the  
 5 district was established or aid in the accomplishment thereof and  
 6 shall cause to be filed in the office of the auditor of the county in which  
 7 said district is located a plan of such improvement or for the repair  
 8 or alteration of existing improvements, the Board shall have jurisdic-  
 9 tion, power and authority, upon the notice, hearing and determination  
 10 hereinafter provided, to adopt such plan of improvement or of repair  
 11 or alteration of existing improvements and to provide necessary  
 12 right of way therefor, and to pay such portion of all costs and damages  
 13 incident to the adoption of such plan, the construction thereunder  
 14 and the maintenance and operation of the works as will not be  
 15 discharged by the Federal Government under legislation existing at  
 16 the time of adoption; also to enter into such agreements with the  
 17 United States Government as may be necessary to meet Federal  
 18 requirements including the taking over, repair and maintenance of  
 19 the works and to perform under such agreements.

1 SEC. 3. The agreement with the Federal Government contemplated  
 2 in the preceding section may be entered into by the Board in advance  
 3 of the filing of the plan—such agreement to be effective if the plan  
 4 is finally adopted. If the plan is approved the Board shall make a  
 5 record of any such cooperative agreement.

1 SEC. 4. After the filing of the plan contemplated in Section 1  
 2 hereof the Board shall, at its first session thereafter, regular, special  
 3 or adjourned, appoint a disinterested and competent civil or drainage

\*Words supplied by code editor, see §3.1 of the code.

4 engineer who shall give bond in an amount to be fixed by the board  
5 conditioned for the faithful and competent performance of his duties.

1 SEC. 5. The engineer shall examine the plan filed by the Federal  
2 agency and the lands affected thereby and shall make and file with  
3 the county auditor a full written report which, together with the  
4 Federal plan, will show the following:

5 (a) The character and location of all contemplated improvements,  
6 and the plats, profiles and specifications thereof.

7 (b) The particular description and acreage of land required from  
8 each 40 acre tract or fraction thereof for right of way, borrow pits  
9 or other purposes together with Congressional or other description  
10 of each tract and the names of the owners thereof as shown by the  
11 transfer books in the office of the auditor.

12 (c) A particular description of each forty (40) acre tract or fraction  
13 thereof that will be excluded from benefit by adoption of the plan as  
14 filed, together with the name of the owners thereof as shown by the  
15 transfer books in the office of the auditor.

16 (d) A particular description of each forty (40) acre tract or fraction  
17 thereof outside the district which will benefit from adoption of the  
18 plan as filed and the name of the owner thereof as shown by the  
19 transfer books in the office of the auditor.

20 (e) Such rights of way or portions thereof previously established  
21 or acquired as will be rendered unnecessary by adoption of the Federal  
22 plan and any unpaid damages awarded therefor.

23 (f) Such other damages previously awarded as will be affected by  
24 adoption of the federal plan.

25 (g) The recommendation of the engineer with respect to the  
26 adoption of the plan.

1 SEC. 6. Upon the filing of such report the board shall examine  
2 and consider the same together with the plan and the commitments  
3 involved in its adoption and may require supplemental reports of the  
4 engineer or of another disinterested engineer with such data as  
5 they may deem necessary or desirable including recommendations  
6 for any change or modification, negotiate with the Federal agency  
7 involved and amend the plan in such manner as may be mutually  
8 agreed upon. The engineer shall make such supplemental reports  
9 as may be required by the board or necessitated by amendment of plan.

1 SEC. 7. If upon consideration of the plan or amended plan and  
2 the report or reports of the engineer and the commitments involved  
3 in the adoption of the plan the board finds that the district will benefit  
4 therefrom or the purposes for which the district was established will  
5 be promoted thereby, the board shall adopt the same as a tentative  
6 plan, entering order to that effect and fixing a date for hearing thereon  
7 not less than thirty (30) days thereafter and directing the auditor  
8 to cause notice to be given of such hearing as hereinafter provided.

1 SEC. 8. Such notice shall be captioned in the name of the district  
2 and shall be directed to the owners, including railroad companies  
3 having rights of way, lien holders, encumbrancers and occupants of  
4 all lands within the district without naming them, and to all other  
5 persons whom it may concern and, naming them, to all owners, lien  
6 holders or encumbrancers of lands which an adoption of the plan

7 would exclude from benefits and of lands outside the district which  
8 will benefit therefrom, and shall set forth that there is on file in the  
9 office of the auditor a plan of construction of the Federal agency  
10 (naming it) together with reports of an engineer thereon which the  
11 board has tentatively approved, and that such plan may be amended  
12 before final action; also the day and hour set for hearing on the  
13 adoption of said plan, and that all claims for damages, except claims  
14 for land required for right of way or construction, and all objections  
15 to the adoption of said plan for any reason must be made in writing  
16 and filed in the office of the auditor at or before the time set for  
17 hearing. Provisions of this chapter for giving notice, waiver of  
18 notice, waiver of objection and damages and adjournment for service  
19 contained in sections 455.21 to 455.26 inclusive shall apply with the  
20 exception that if notice be given by publication the last publication  
21 need not be more than ten (10) days prior to the time set for hearing.

1 SEC. 9. The board may continue the hearing pending decision and  
2 may amend the plan but in the event of amendment the board shall  
3 continue further hearing to a fixed date. All parties over whom the  
4 board then has jurisdiction shall take notice of such further hearing  
5 but any new parties rendered necessary by the modification or change  
6 of plans shall be served with notice as for the original hearing.

1 SEC. 10. If the board, after consideration of the subject matter,  
2 including all objections filed to the adoption of the plan and all claims  
3 for damages, shall find that the district will be benefited by adoption  
4 of the plan or the purposes for which the district was established is  
5 furthered thereby, they shall enter order approving and adopting  
6 such final plan. Such order shall have the effect of:

7 (a) Altering the boundaries of the district to conform to the  
8 changes effected by the plan adopted.

9 (b) Cancelling all existing awards for damages for property not  
10 appropriated for right of way or construction and rendered un-  
11 necessary by the plan so adopted.

12 (c) Cancelling all awards previously made for damages other than  
13 for right of way or construction but reinstating the claims for such  
14 damages which said claims may be amended by the claimants within  
15 ten days thereafter.

16 (d) Cancelling all unpaid assessments for benefits on lands excluded  
17 from the district by adoption of the plan. The assessments so cancelled  
18 shall become part of the costs of the improvement.

19 (e) Establishing as benefited thereby the lands added to the district  
20 by adoption of the plan and rendering same subject to classification and  
21 assessment.

1 SEC. 11. The board shall thereupon appoint three appraisers of  
2 the qualifications prescribed in section 455.30, who shall qualify in  
3 the manner therein provided, and shall fix a time for hearing on their  
4 report of which all interested parties shall take notice. The appraisers  
5 shall view the premises and fix and determine the damages to which  
6 each claimant is entitled, including claimants whose awards for  
7 damages were cancelled by the order of adoption, and shall place  
8 a separate valuation upon the acreage of each owner taken for right  
9 of way or other purposes necessitated by adoption of the plan and

10 shall file a report thereof in writing in the office of the auditor at  
11 least five days before the date fixed by the board for hearing thereon.  
12 Should the report not be filed on time or should good cause for delay  
13 exist the board may postpone the time for final action on the subject  
14 and, if necessary, may appoint other appraisers. Thereafter the  
15 provisions of section 455.32 shall apply.

1 SEC. 12. Appointment of commissioners to assess benefits and  
2 classify lands within the district and all proceedings relative to such  
3 assessment and classification shall be as otherwise provided in this  
4 chapter except that when the lands of the district have previously  
5 been classified, the commissioners shall classify and assess only such  
6 lands as have been added to the district by adoption of the plan and  
7 recommend such changes in existing classifications as are materially  
8 affected by the plan so adopted. The board may, upon hearing, adjust  
9 the classification of lands affected by the plan.

1 SEC. 13. The board shall levy the costs contemplated in section  
2 one hereof upon all of the lands of the district on the basis of the  
3 classification for benefits as finally established and the assessments  
4 so levied shall be paid in one installment unless the board in its  
5 discretion shall provide for the payment thereof in not more than  
6 three equal installments with interest at four percent (4%) per  
7 annum. The board may issue warrants bearing interest at four  
8 percent (4%) per annum against assessments.

1 SEC. 14. The board shall make such subsequent levies as may be  
2 necessary to meet the expenses of the district including costs of  
3 maintenance, repair and operation of the works.

1 SEC. 15. Except as otherwise provided herein all provisions of  
2 chapters 455 to 467 inclusive of the Code of 1946 relative to assessment  
3 of damages, appointment of an engineer, employment of counsel,  
4 payment for work, levy and collection of drainage and levee assess-  
5 ments and taxes, the issue of improvement certificates and drainage  
6 or levee bonds, the taking of appeals and the manner of trial thereof  
7 and all other proceedings relating thereto shall apply.

1 SEC. 16. The provisions of this act shall be applicable to districts  
2 organized or established under the provisions of chapters 457, 458,  
3 459, 460, 461, 462, 466 and 467 of the 1946 Code of Iowa.

1 SEC. 17. When a district is in the management of Trustees as  
2 provided in Chapter 462 the Board of Trustees shall have the juris-  
3 diction to adopt the Federal plan as provided herein and to exercise  
4 all other powers herein granted except that any levy shall be made  
5 by the Board of Supervisors upon certificate of the amount necessary  
6 by the Trustees as provided in Code section 462.28.

1 SEC. 18. If any of the provisions of this chapter shall be held  
2 invalid or unconstitutional such invalidity or unconstitutionality shall  
3 not affect other provisions of this chapter and to these ends the  
4 provisions of this chapter as amended are declared to be severable.

1 SEC. 19. This act being deemed of immediate importance shall be  
2 in full force and effect from and after its publication in the Sidney

- 3 Argus-Herald, a newspaper published at Sidney, Iowa, and in the  
4 Glenwood Opinion-Tribune, a newspaper published at Glenwood, Iowa.

Approved April 30, 1947.

I hereby certify that the foregoing act was published in the Sidney Argus-Herald, May 8, 1947, and the Glenwood Opinion-Tribune, May 8, 1947.

ROLLO H. BERGESON, *Secretary of State.*

## CHAPTER 246

### HYDROELECTRIC PLANTS

H. F. 532

AN ACT relating to hydro-electric generating plants or projects and making it unlawful for any person, firm, association or corporation to engage in the business of constructing, maintaining or operating a hydro-electric generating plant or system within the state of Iowa without first having obtained from the executive council of the state a certificate of convenience and necessity therefor, and providing the procedure for the obtaining and the issuance of such a certificate, and penalties for violations.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. It shall be unlawful for any person, firm, association  
2 or corporation to engage in the business of constructing, maintaining  
3 or operating within this State any hydro-electric generating plant  
4 or project without first having obtained from the Executive Council  
5 of Iowa a certificate of convenience and necessity declaring that  
6 the public convenience and necessity require such construction, main-  
7 tenance or operation.

1 SEC. 2. No certificate of convenience and necessity shall be issued  
2 by the Executive Council except after a public hearing thereon. The  
3 Executive Council shall, upon the filing of an application for such  
4 a certificate, fix the time of the public hearing thereon and shall  
5 prescribe the notice which shall be given by the Applicant. Any  
6 interested person, firm, association, corporation, municipality, State  
7 Board or Commission may intervene and participate in such proceeding  
8 and at such hearing.

1 SEC. 3. Before the Executive Council shall issue a certificate  
2 of convenience and necessity, it shall first be satisfied that the public  
3 convenience and necessity will be promoted thereby, that the applicant  
4 has the financial ability to carry out the terms and conditions imposed,  
5 and the applicant has in writing agreed to accept, abide by and comply  
6 with such reasonable terms and conditions as the Executive Council  
7 may require and impose.

1 SEC. 4. The Executive Council shall prescribe such rules and  
2 regulations as it may determine necessary for the administration  
3 of the provisions of this act and may amend such regulations at any  
4 time.

1 SEC. 5. The Executive Council shall, upon the filing of an applica-  
2 tion, require the applicant to deposit with the Secretary of the Execu-  
3 tive Council such amount as the Council shall determine, to pay the