

A BILL

FOR AN ACT TO AMEND SECTIONS NINETEEN HUNDRED EIGHTY-NINE-a2 (1989-a2), NINETEEN HUNDRED EIGHTY-NINE-a4 (1989-a4), NINETEEN HUNDRED EIGHTY-NINE-a5 (1989-a5), NINETEEN HUNDRED EIGHTY-NINE-a6 (1989-a6), NINETEEN HUNDRED EIGHTY-NINE-a7 (1989-a7), NINETEEN HUNDRED EIGHTY-NINE-a8 (1989-a8), NINETEEN HUNDRED EIGHTY-NINE-a10 (1989-a10), NINETEEN HUNDRED EIGHTY-NINE-a12 (1989-a12), NINETEEN HUNDRED EIGHTY-NINE-a13 (1989-a13), NINETEEN HUNDRED EIGHTY-NINE-a14 (1989-a14), NINETEEN HUNDRED EIGHTY-NINE-a16 (1989-a16), NINETEEN HUNDRED EIGHTY-NINE-a18 (1989-a18), NINETEEN HUNDRED EIGHTY-NINE-a19 (1989-a19), NINETEEN HUNDRED EIGHTY-NINE-a21 (1989-a21), NINETEEN HUNDRED EIGHTY-NINE-a22 (1989-a22), NINETEEN HUNDRED EIGHTY-NINE-a27 (1989-a27), NINETEEN HUNDRED EIGHTY-NINE-a29 (1989-a29), NINETEEN HUNDRED EIGHTY-NINE-a32 (1989-a32), NINETEEN HUNDRED EIGHTY-NINE-a35 (1989-a35), NINETEEN HUNDRED EIGHTY-NINE-a44 (1989-a44) OF THE SUPPLEMENT TO THE CODE, 1907, AND TO REPEAL SECTION NINETEEN HUNDRED EIGHTY-NINE-a3 (1989-a3), NINETEEN HUNDRED EIGHTY-NINE-a11 (1989-a11) AND NINETEEN HUNDRED EIGHTY-NINE-a19 (1989-a19) OF THE SUPPLEMENT TO THE CODE, 1907, AND ENACT SUBSTITUTES THEREFOR, ALL RELATING TO THE SUBJECT OF WATERS, WATER COURSES, LEVEES AND DRAINS.

Be it Enacted by the General Assembly of the State of Iowa:

SECTION 1. That the law as it appears in section nineteen hundred eighty-nine-a2 (1989-a2) be amended by inserting after the word "district," in line thirty, the following, "so as to include therein all lands that will be benefited by the proposed improvements."

SEC. 2. That the law as it appears in section nineteen hundred eighty-nine-a2 (1989-a2) of the Supplement to the Code, 1907, be amended by inserting after the word "shall" in line thirty-six, the words, "so far as practicable," also by striking out from the lines thirty-nine and forty of said section the words, "having due regard for straightening and shortening of such natural streams, water courses, and course of natural drainage," and inserting in lieu thereof the following, "but where it will be more economical or practicable such ditch or drain need not follow the course of such natural streams, water courses, or course of natural drainage,

8 but may straighten, shorten or change the course of any natural stream, water course or gen-
9 eral course of drainage," also by inserting after the word "shall" in the forty-first line the
10 words, "so far as practicable."

SEC. 3. That the law as it appears in section nineteen hundred eighty-nine-a3 (1989-a3) of
2 the Supplement to the Code, 1907, be repealed and the following substituted in lieu thereof:
3 "Upon the filing of the return of the engineer, if the same recommends the establishment of
4 the levee or drainage district, the board of supervisors shall then examine the return of the
5 engineer, and if the plans seems to be expedient and meets with the approval of the board of
6 supervisors, they shall direct the auditor to cause a notice to be given, as hereinafter pro-
7 vided. But if it does not appear to be expedient and is not approved, the board of super-
8 visors are hereby authorized to direct said engineer, or another engineer, selected by them, to
9 report another plan. At any time prior to the establishment of the district, the plan may be
10 amended, and as amended shall be conclusive, unless appealed from as provided in section nine-
11 teen hundred eighty-nine-a6 (1989-a6) of this chapter. When the plan, if any, shall have been
12 finally adopted by the board of supervisors, they shall order the auditor immediately there-
13 after to cause notice to be given to the owner of each tract of land or lot within the proposed
14 levee or drainage district, as shown by the transfer books of the auditor's office, including rail-
15 way companies having rights of way in the proposed district, and to each lienholder or in-
16 cumbrancer of any land through which or abutting upon which the proposed improvement ex-
17 tends as shown by the county records, and to all of the persons whom it may concern, without
18 naming individuals, of the pendency and prayer of said petition, the favorable report thereon
19 by the engineer and that such report may be amended before final action, the day set for hear-
20 ing on said petition and report before the board of supervisors, and all claims for damages
21 must be filed in the auditor's office not less than five days before the day set for hearing upon
22 the petition, which notice shall be served by publication thereof once each week for three con-
23 secutive weeks in some newspaper of general circulation published in the county, the last of
24 which publications shall be not less than ten days prior to the day set for hearing upon the
25 petition, proof of such service to be made by affidavit of the publisher and filed with the coun-
26 ty auditor. No notice need be served by the auditor upon any of the persons hereinbefore
27 described who shall file with said auditor a statement in writing signed by said party entering
28 his appearance at said hearing and waiving any additional notice. If, at the date set for the
29 hearing before the board of supervisors, it should appear that any person entitled to notice, as
30 provided in this section, should not have been served with notice for the time, or in the man-
31 ner, as herein provided, the board may postpone said hearing and set another time for the
32 same, and notice of such day of hearing may be served on such omitted parties in the manner
33 and for the same length of time, as provided for in this section, and by fixing said new day
34 for hearing and by adjourning said proceedings to said time, the said board of supervisors

35 shall not be held to have lost jurisdiction of the subject matter of said proceedings, nor of any
36 parties so previously served with notice. Personal service upon any of the parties above des-
37 cribed in the manner required for service of original notices shall be sufficient and make pub-
38 lication of notice as to such persons unnecessary.”

SEC. 4. That the law as it appears in section nineteen hundred eighty-nine-a5 (1989-a5) of
2 the Supplement to the Code, 1907, be amended by striking out from line four the words “man-
3 ner (matter)” and inserting in lieu thereof the word “substance.”

SEC. 5. That the law as it appears in section nineteen hundred eighty-nine-a5 (1989-a5) of
2 the Supplement to the Code, 1907, be amended by striking out all of said section following the
3 semi-colon after the word “adjournment,” in line twenty-three, and inserting in lieu thereof
4 the following: “and the county auditor shall appoint three appraisers to assess such damages,
5 one of whom shall be the engineer theretofore appointed as above provided, or, in case of his
6 absence or inability to act, some other engineer, and two freeholders of the county who shall
7 not be interested in, nor related to any party interested in the proposed improvement.”

SEC. 6. That the law as it appears in section nineteen hundred eighty-nine-a6 (1989-a6) of
2 the Supplement to the Code, 1907, be amended by striking out the word “ten” in line twenty-
3 seven of said section, and inserting the word “twenty” in lieu thereof; also by striking out
4 the period after the word “term” in line thirty-four and inserting in lieu thereof a semi-
5 colon and after it the words, “the finding of the court in relation to the establishment of or re-
6 fusal to establish the levee or drainage district shall be certified by the clerk to the board
7 of supervisors, who shall enter an order in harmony therewith and proceed accordingly.”

SEC. 7. That the law as it appears in section nineteen hundred eighty-nine-a7 (1989-a7) of
2 the Supplement to the Code, 1907, be amended by striking out from lines four and five the
3 words, “upon such terms and conditions as the county auditor may deem just and proper,”
4 and inserting in lieu thereof the words “by sufficient bond to be fixed and approved by the
5 county auditor, and if such payment or security be not promptly furnished, the auditor shall
6 give the petitioners notice in writing, requiring them to pay or secure such damages as have
7 been allowed, and advising them that if they fail to do so within ten days after the service
8 of such notice, the board will rescind its action in establishing the said district, and tax the
9 costs and expenses already incurred to the petitioners and to their bondsmen; and upon such
10 date set, the board of supervisors shall proceed in accordance with the terms of such notice.

SEC. 8. That the law as it appears in section nineteen hundred eighty-nine-a8 (1989-a8) of
2 the Supplement to the Code, 1907, be amended by striking out the word “four” in the second
3 line of said section and inserting the word “two” in lieu thereof.

SEC. 9. That the law as it appears in section nineteen hundred eighty-nine-a10 (1989-a10) of
2 the Supplement to the Code, 1907, be amended by striking out the word “shall” in line six and
3 inserting in lieu thereof the word “may”; also by striking out the period at the close of said

4 section and inserting in lieu thereof a semi-colon and after it the following, "or the board
5 may cause the uncompleted work to be done, paying therefor out of the balance of the con-
6 tract price not theretofore paid over to the contractor, and if the expenses of so completing the
7 work exceeds such balance of the contract price, then the board of supervisors may cause an
8 action to be brought in the name of the county in behalf of said district for the recovery of
9 the amount of such excess from the contractor and his bondsmen."

SEC. 10. That the law as it appears in section nineteen hundred eighty-nine-a11 (1989-a11) of
2 the Supplement to the Code, 1907, be, and the same is hereby repealed and the following en-
3 acted in lieu thereof: "If, after the establishment of said district, it shall become apparent
4 that a levee or drain should be enlarged, deepened or otherwise changed for the better service
5 thereof, said board may by resolution authorize such change or changes in the said improve-
6 ment as the engineer shall recommend; provided that, whenever any change or changes are
7 made under this section, or under any other section of this chapter, all persons whose lands
8 shall be taken thereby shall first have been given like notices as provided in section nineteen
9 hundred eighty-nine-a3 (1989-a3) of this chapter, and shall have like opportunity to file claims
10 for damages, as provided for in section nineteen hundred eighty-nine-a4 (1989-a4) of this
11 chapter, and like opportunity to appeal from the action of the board as provided in section
12 nineteen hundred eighty-nine-a26 (1989-a26) of this chapter."

SEC. 11. That the law as it appears in section nineteen hundred eighty-nine-a12 (1989-a12)
2 of the Supplement to the Code, 1907, be amended by striking out, beginning with the word "or"
3 in line three of said section, and all following down to and including the comma after the
4 word "provided" in line six; also amend said section by striking out the word "county" in
5 line eight of said section and inserting in lieu thereof the word "State"; also by inserting
6 after the word "appointment" in line eleven the words "begin to"; also by striking out the
7 word "assess" in line forty-three and inserting in lieu thereof the word "levy"; also by strik-
8 ing out the period following the word "district" in line forty-four and inserting a semi-
9 colon in lieu thereof and after it the words, "and all installments of the tax shall be levied at
10 that time, and shall bear interest at six per cent per annum from that date; which rate may be
11 later reduced to correspond with the rate specified in the certificates or bonds as the case may
12 be." Also by striking out the words, "or for repairs" in line forty-six of said section; also
13 by inserting a period following the word "first" in the last line of said section and by striking
14 out from said line the words "for either purpose."

SEC. 12. That the law as it appears in section nineteen hundred eighty-nine-a13 (1989-a13)
2 of the Supplement to the Code, 1907, be amended by striking out the period following the word
3 "lands" in line six thereof, and inserting in lieu thereof a comma, and after it the words, "or
4 brings an outlet nearer to said lands or relieves the same from overflow."

SEC. 13. That the law as it appears in section nineteen hundred eighty-nine-a14 (1989-a14)

2 of the Supplement to the Code, 1907, be amended by striking out all of said section following
3 the period after the word "district" in line fourteen of said section, and inserting in lieu
4 thereof the following: "When an appeal has been taken from any of the orders of the board
5 upon which appeal is allowed, the county auditor shall make a transcript of the notice of ap-
6 peal and bond and transmit the same to the clerk of the district court, on or before the first day
7 of the next term of said court, and the clerk shall docket the same upon payment by the ap-
8 pellant of the docket fee; and on or before the first day of the term of the court at which the
9 appeal is triable, the appellant shall file a petition setting forth his claims and objections, and
10 it shall not be necessary for the appellee to file answer thereto unless some affirmative defense
11 is to be made thereto."

SEC. 14. That the law as it appears in section nineteen hundred eighty-nine-a16 (1989-a16)
2 of the Supplement to the Code, 1907, be amended by inserting after the comma following the
3 word "return" in line ten of said section the words, "levels, surveys"; and also by adding to
4 said section the following, "and in case the cost of said returns, levels, surveys, plat and profile
5 made in said former proceedings have been paid for by the former petitioners or the bondsmen,
6 then a reasonable amount shall be allowed said petitioners or bondsmen for the use of the
7 same. In case the board of supervisors have refused to establish a drainage district for any
8 reason, they may at any time upon petition of one or more persons accompanied by bond as
9 provided in section 1989-a2 of this chapter, re-open the proceedings, and in such case a notice
10 shall be served upon all owners of the lands situated within said proposed district to show
11 cause why the said district should not be established, which said notice shall be served as pro-
12 vided in section nineteen hundred eighty-nine-a2 (1989-a2) of this chapter. And after the serv-
13 ing of said notice and hearing, the said board may proceed to establish or refuse to establish
14 the districts, as provided in the original act, with or without additional bonds, as the said
15 board may direct."

SEC. 15. That the law as it appears in section nineteen hundred eighty-nine-a18 (1989-a18)
2 of the Supplement to the Code, 1907, be amended by striking out from lines seventeen and
3 eighteen the words, "within thirty days from the time of the service of such notice upon it";
4 and by striking out the semi-colon following the said word "it"; also by inserting a semi-
5 colon after the word "same" in line twenty-three, and by striking out from said line twenty-
6 four the words, "within the time fixed in said notice" and inserting in lieu thereof the words
7 "and to complete the same by the time the contractor, in the construction of the levee, ditch or
8 drain, reaches the right of way of the railroad company at the point where the same crosses
9 such right of way."

SEC. 16. That section nineteen hundred eighty-nine-a19 (1989-a19) of the Supplement to
2 the Code, 1907, be, and the same is hereby repealed and the following enacted in lieu thereof:
3 "Whenever such levee, ditch, drain or change of any natural water course crosses a public

4 highway, necessitating the removal or the building or re-building of any bridge or bridges, the
5 board of supervisors shall remove, build or re-build such bridge or bridges, paying the costs
6 and expenses thereof from the county bridge fund. Whenever any highway within the levee or
7 drainage district will be beneficially affected by the construction of any improvement or im-
8 provements in such district, it shall be the duty of the commissioners appointed to classify and
9 assess benefits, to determine and return in their report the amount of benefit to such highway,
10 and notice thereof shall be served upon the clerk of the township in which said highway is lo-
11 cated, as provided in the case of an individual property owner. The township trustees or clerk
12 of such township may file objections to such assessment in the time and manner provided in
13 case of land owners, and the trustees shall have the same right of appeal from the finding of
14 the board with reference to the assessment on account of the benefits to such highway. One-
15 fourth of such assessment shall be paid by the county from the county road fund, or from the
16 county drainage fund and three-fourths by the township. Such assessment may be paid by
17 the township from its road fund or at a regular or special meeting, the township trustees may
18 determine and certify to the board of supervisors the number of mills needed as a special
19 drainage tax to meet the assessments that may be levied under this section, but not to exceed
20 five (5) mills shall be so levied in any one year; and such funds when so raised shall be used
21 for no other purposes whatever. The provisions of this section shall apply to drainage assess-
22 ments heretofore levied on account of highways, which are still unpaid.

SEC. 17. That the law as it appears in section nineteen hundred eighty-nine-a21 (1989-a21)
2 be amended by inserting after the comma following the word "assessed" in line thirteen (13) of
3 said section the following: "Unless such changes or repairs are such as benefit only a portion
4 of the lands in such district, or will exceed ten percent of the original estimated cost of the
5 improvement, in which cases, a commission to assess the benefits accruing by reason of such
6 repairs shall be appointed in the same manner as provided in section nineteen hundred eighty-
7 nine-a12 (1989-a12) of this chapter, and the same proceedings as to assessment and appeal shall
8 be had as provided in said section. Also amend said section by striking out the word "except"
9 in line thirteen (13) of said section and begin the word "where" with a capital letter.

SEC. 18. That the law as it appears in section nineteen hundred eighty-nine-a22 (1989-a22)
2 be amended by adding to said section the following: "In making connections with the drain-
3 age improvements provided for in this chapter, care must be taken to so protect the drain or
4 drains where such connection is made as to prevent damage thereto by washing out the banks
5 or by permitting soil or silt to be carried into the public improvement, and to this end the
6 board of supervisors may make specifications as to the manner in which all such connections
7 shall be made. The moneys received from owners of lands so brought into the district shall
8 go into the drainage fund of such district."

SEC. 19. That the law as it appears in section nineteen hundred eighty-nine-a27 (1989-a27)

2 of the Supplement to the Code, 1907, be amended by striking out the period after the word
3 "board" in line twenty-four and inserting a semi-colon in lieu thereof, and after it the words,
4 "such bonds shall contain a provision permitting one hundred (\$100) dollars, or any multiple
5 thereof, to be paid upon the principal on any interest payment date, after three years from
6 its date."

SEC. 20. That the law as it appears in section nineteen hundred eighty-nine-a27 (1989-a27)
2 of the Supplement to the Code, 1907, be amended by striking out the period after the word
3 "therefor" in line eighteen of said section and inserting in lieu thereof a semi-colon and after
4 it the words, "any land owner may free his land of the lien of such tax by payment of the prin-
5 cipal thereon with interest to the following March or September as the case may be, but in
6 no case shall such payment be permitted within the first three years following such levy, un-
7 less all of the interest for such period be paid in addition to the principal."

SEC. 21. That the law as it appears in section nineteen hundred eighty-nine-a29 (1989-a29)
2 of the Supplement to the Code, 1907, be amended by striking out the word "ten" in line thir-
3 teen and substituting in lieu thereof the word "thirty"; also by adding to said section after
4 the period at the end thereof, the following words: "When the board of supervisors are of un-
5 equal number, each member of the larger board, or boards, shall cast such fractional part of a
6 full vote as is determined by making the number of the smaller board the numerator, and the
7 number of the larger board, or boards, the denominator of such fraction."

SEC. 22. That the law as it appears in section nineteen hundred eighty-nine-a32 (1989-a32)
2 be amended by striking out the word "classify" at the end of line six in said section, and in-
3 serting in lieu thereof the words, "begin the work of classifying."

SEC. 23. That the law as it appears in section nineteen hundred eighty-nine-a35 (1989-a35)
2 of the Supplement to the Code, 1907, be amended by adding thereto the following: "Notice of
3 appeal and bond shall be given to and filed with the county auditor in the county where the
4 appeal is taken."

SEC. 24. That the law as it appears in section nineteen hundred eighty-nine-a44 (1989-a44)
2 of the Supplement to the Code, 1907, be amended by inserting after the comma following the
3 word "necessary" in line four of said section the words, "and at least once each year."