

Senate File No. 465.  
BY BUSER.

County and township affairs.  
March 17, 1919.

## A BILL FOR AN ACT

To amend an act of the thirtieth general assembly, being sections nineteen hundred eighty-nine-a1, (1989-a1) to nineteen hundred eighty-nine-a56 (1989-a56), supplement to the code, 1913, and amendments thereto. That chapter sixty-eight (68) of the acts of the thirtieth general assembly, as amended and as set out in sections nineteen hundred eighty-nine-a1 (1989-a1) to nineteen hundred eighty-nine-a56 (1989-a56) of the supplement to the code, 1913, and being an act to promote public health, convenience, welfare, etc., be amended by adding thereto the following sections:

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

1 Section 1. If after the establishment of a drainage  
2 district, including a pumping plant, and before or after  
3 the completion of the drainage improvement therein, it  
4 shall become apparent that the lands can be more effectually  
5 drained, managed or controlled by a division of the district  
6 the board or boards of supervisors may, by resolution after  
7 giving notice and holding a public hearing thereon authorize  
8 such change or division as the engineer shall recommend and  
9 which they deem equitable, which recommendation shall state  
10 among other things the equities to be determined in arriving  
11 at the division of the district setting forth the amount of  
12 tax levied to date of petition, total amount expended in the  
13 district, total amount expended in each of the proposed sub-  
14 divisions for permanent improvements, ditches, etc.; total

15 estimated amount necessary to expend to secure drainage  
16 according to original or amended plan in both sub-divisions  
17 of the original district, the approximate estimate of the  
18 engineer in charge as to the total amount expressed in  
19 dollars and cents which one proposed sub-division of the  
20 district shall pay to the other, if any, and if a petition  
21 shall be filed by those owning fifty per cent of the acreage  
22 in that portion of the district, asking to be set aside as  
23 a separate district, the board or boards of supervisors  
24 must require the engineer in charge to file a recommendation  
25 containing the information heretofore enumerated as necessary  
26 to be stated in said recommendation, and must consider the  
27 petition by publishing notice and calling a public hearing  
28 thereon, and if in their opinion, after the hearing and  
29 consideration thereof, the division shall be made for the  
30 reasons herein set forth, the said boards may order said  
31 division and in either of said cases, the board or boards  
32 of supervisors shall proceed as follows: Provided, however,  
33 that no sub-district can be formed from territory in a  
34 district containing a pumping plant or sub-district there-  
35 of containing a pumping plant unless the water that naturally  
36 flows into and accumulates in said proposed sub-district  
37 can and will be disposed of by ditches, pumping plant or other-  
38 wise, so that no material portion of the same will ever  
39 directly or indirectly reach a pumping plant or plants,  
40 previously constructed in the district proposed to be sub-

41 divided, and have to be pumped thereby.

1     Sec. 2. The said board or boards of supervisors,  
2 when the drainage district shall have been divided, shall  
3 appoint three commissioners whose qualifications shall be  
4 the same as provided in section nineteen hundred eighty-  
5 nine-a12 (1989-a12), and the said commissioners shall within  
6 twenty days after their appointment begin to personally  
7 inspect the said lands and make a complete canvass of all  
8 previous classifications of lands in said district, which  
9 shall include the bonded indebtedness, the amount of taxes  
10 paid for the original improvement by the several tracts  
11 of land in each of the sub-divisions, and all outstanding  
12 indebtedness which is assessable against the original  
13 improvement, together with the cost of the proposed division  
14 of said district. The said commissioners shall also in-  
15 vestigate the costs and the amount of money which has been  
16 expended on ditches, drainage, improvements and pumping  
17 plant, in the sub-districts for the reclamation of said  
18 lands. If the commission finds it necessary to consider  
19 whether or not any particular class or tract of land has  
20 received proper drainage, to determine the equities as  
21 between the sub-division of the district, they must in-  
22 vestigate all the tracts of land in the district not re-  
23 ceiving proper drainage; they shall use as a basis of  
24 such consideration the provisions of the original, or if  
25 amended, the amended plan as adopted in the district, and

26 the benefit assessments levied against said class or tract  
27 of land under consideration, as material facts to determine  
28 the degree of drainage to which said class or tract of land  
29 was entitled. The cost of an improvement consisting of a  
30 pumping plant located in either of the sub-divisions prior  
31 to division, shall not be properly chargeable to the pro-  
32 posed sub-division in which it is located if the pumping  
33 capacity is greater than is reasonably necessary to pump  
34 the water from the proposed sub-division in which it is  
35 located; in determining the equities of the sub-districts  
36 the total estimated cost of the excess capacity shall be  
37 borne by the sub-divisions of said district petitioning,  
38 or which the engineer in charge is recommending for sub-  
39 division. Provided, however, if the original pumping plant  
40 having an excess capacity is so constructed that the excess  
41 pumping capacity can be segregated without destroying the  
42 original plant, then in and that case, the machinery and  
43 pumps in excess shall be removed by the board or boards of  
44 supervisors or fair value of the excess capacity paid to  
45 or turned over to the district or sub-district petitioning  
46 for said change of district, the purpose being to make the  
47 division of said district into sub-districts as nearly equi-  
48 table in all respects as possible. They shall also determine  
49 from their investigation the amount of costs and money which  
50 shall be due from one subdivision to the other, and so report  
51 their finding to the board or boards of supervisors. It

52 shall then be the duty of the board or boards of supervisors  
53 to examine said report, and, if found correct, to approve  
54 the same; but if, in the judgment of the board or boards of  
55 supervisors, the said report should be amended, the said  
56 board or boards shall amend said report, and then approve  
57 the same as amended.

1     Sec. 3. Upon the approval of the report, the board  
2 or joint boards of supervisors shall levy the amount so  
3 found on the lands in the sub-district which received the ex-  
4 cessive benefits, which shall be on the basis of benefit as-  
5 sessments of the original assessment, and when collected  
6 shall be credited to the sub-division of the said district  
7 entitled to the same. Said assessment to be made against  
8 the sub-district as provided in section nineteen hundred  
9 eighty-nine-a12 (1989-a12) of the drainage law of the state.

1     Sec. 4. It is further provided that, should two or  
2 more districts organized under the drainage laws of the state  
3 of Iowa and it was apparent that said districts could  
4 be consolidated and operated under one management, the said  
5 consolidation shall be brought about and affected as pro-  
6 vided herein and readjustment of the indebtedness of said  
7 drainage districts shall be affected in the same manner  
8 as followed under the act pertaining to the division of  
9 districts. Provided no consolidation petitions or rec-  
10 ommendations shall be considered unless all drainage  
11 districts constituting the proposed consolidated district

12 shall file an engineer's report recommending same or  
13 petition of the owners of fifty per cent of the acreage  
14 of said district asking for such consolidation.

1 Sec. 5. Nothing in this act shall affect the  
2 legality of any assessments levied before the division  
3 or consolidation, except that the maintenance tax shall be  
4 divided according to the amount paid in by each district.

1 Sec. 6. Whenever any levy or drainage district  
2 shall have been established and the improvement constructed  
3 and accepted, the board or boards of supervisors, or  
4 commissioners (if they have been appointed) and it shall  
5 become apparent that the lands can be more effectually  
6 drained, managed or controlled by a division thereof, then  
7 the said board or boards or commissioners may divide said  
8 district and if the district is divided by a stream and  
9 sub-divided into sub-districts, they shall divide the  
10 district and thereafter said district shall be carried on  
11 as though established originally as a district, except  
12 nothing herein shall affect the legality or collection of  
13 any assessments levied before the division, except that the  
14 maintenance tax, if any, shall be divided in accordance with  
15 the amount paid in by each district, and provided further  
16 that if said district before division was under the control  
17 and management of commissioners, then each commissioner  
18 shall continue to serve in the district in which his lands  
19 are situated, and other commissioners shall be elected

20 in each new district and the election for said new commissioners  
21 shall be called by the old board of commissioners in each  
22 district, which said election shall be called within ten  
23 days after said division is made, shall be carried on as  
24 now provided for the election of commissioners.

1     Sec. 7. Should the indebtedness upon the sub-district  
2 be more than should be paid at any one year, the said board  
3 or boards shall arrange for the payment of the said assess-  
4 ments according to the drainage laws.

1     Sec. 8. If before a district is completed or if  
2 after a district shall have been completed and accepted, it  
3 develops or appears that portions of the lands within said  
4 district are caused to be wet or non-productive by reason  
5 of the floods or overflow waters from some stream running  
6 into, through or along said district and that said district  
7 or some other district of which this district shall have  
8 formed a part, shall have constructed or provided a settling  
9 basin to care for the said floods and overflow waters of  
10 said stream or water course by no channel to said settling  
11 basin has been provided, said board or boards of supervisors  
12 may and are hereby empowered to lease, buy or condemn the  
13 necessary lands within or without the district to provide  
14 said channel to said settling basin and if necessary to  
15 condemn the said lands to provide said channel the pro-  
16 ceedings shall be as provided by the laws of the state of  
17 Iowa for the taking of private property for public improve-

18 ments.

1     Sec. 9. All acts or parts of acts in conflict  
2 herewith are hereby repealed and this act, being of  
3 immediate importance, shall become effective upon the  
4 publication in the Des Moines Register and the Des Moines  
5 Capital, newspapers published in Des Moines, Iowa.