

February 28, 1969

Passed on File

*Agreement passed on amended 4-79
Repealed " 1-13-70*

Withdrawn 3/3
SENATE FILE 372

By SMITH and FLATT
(Bergman and Varley)

Passed Senate, Date..... Passed House, Date

Vote: Ayes Nays Vote: Ayes Nays

Approved

A BILL FOR

1 An Act to authorize the establishment of rural water districts,
2 to prescribe the procedure therefor, and relating to the
3 purpose and manner of operation of such districts.

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

5 Section 1. As used in this Act, unless the context other-
6 wise requires:

7 1. "District" means a rural water district incorporated
8 and organized pursuant to the provisions of this Act.

9 2. "Board" means the board of directors of a district,
10 and "director" means a member of such board of directors.

11 3. "Member" means any owner of land which is located
12 within a district, or the occupant thereof or other person
13 acting for the owner with the owner's written consent.

14 4. "Participating member" means a member who has sub-
15 scribed to and paid the established fee for at least one
16 benefit unit in a district, in the manner provided by this
17 Act.

18 5. "Supervisors" means the board of supervisors of any
19 county, or the joint boards of supervisors of any two or
20 more counties, in which a district has been incorporated and
21 organized or is proposed to be incorporated and organized.

22 6. "Auditor" means the county auditor of any county in
23 which a district has been incorporated and organized or is
24 proposed to be incorporated and organized for, in the case of
25 a district or proposed district lying in two or more counties,

1 the auditor of the county having the largest acreage in the
2 county.

3 7. "Council" means the Iowa natural resources council.

4 Sec. 2. A petition may at any time be filed with the
5 auditor requesting the supervisors to incorporate and organize
6 a district encompassing all or any portion of the unincorpo-
7 rated area, not then included in any other district, in any
8 county or any two or more adjacent counties, for the purpose
9 of providing an adequate supply of water for domestic purposes
10 to residents of the area who are not served by the water mains
11 of any city or town water system and who cannot feasibly
12 obtain adequate supplies of water from wells on their own
13 premises. The petition shall be signed by the owners of at
14 least fifty percent of all privately-owned agricultural land
15 lying within the outside perimeter of the area designated for
16 inclusion in the proposed district, and shall state:

17 1. The exact location of the area so designated, describ-
18 ing such area by section, or fraction thereof, and by township
19 and range.

20 2. That the area so designated, or a substantial portion
21 thereof is without an adequate water supply, and that the con-
22 struction of one or more dams or wells, a water distribution
23 system, and such other works as may be required in connection
24 therewith, is necessary in order to provide said area an
25 adequate water supply.

26 3. That the proposed improvements will be conducive to
27 and will promote the public health, convenience, and welfare.

28 Sec. 3. When a petition for incorporation and organization
29 of a district is filed with the auditor, he shall so inform
30 the supervisors who shall fix a time for a hearing thereon,
31 not less than fifteen nor more than thirty days after the
32 filing of the petition. The auditor shall prepare a notice
33 as hereinafter required, which shall at least seven days be-
34 fore the date fixed for the hearing on the petition:

35 1. Be sent by certified mail to the owner of each tract

1 of unincorporated land within the area designated for incor-
2 poration of the proposed district, as shown by the transfer
3 books in the auditor's office of each county in which any
4 part of the proposed district is located.

5 2. Be sent by ordinary mail to all actual occupants of
6 land within the proposed district, without naming individuals.

7 3. Be published in a newspaper of general circulation in
8 the county.

9 4. Be transmitted, together with a copy of the original
10 petition, to the council.

11 Sec. 4. The notice prepared by the auditor pursuant to
12 section three (3) of this Act shall set forth:

13 1. The location of the land designated by the petitioners
14 for incorporation of the proposed district, as described by
15 the original petition.

16 2. The time and place fixed by the supervisors for the
17 hearing on the petition.

18 3. That all owners or occupants of land within the
19 boundaries described may appear and be heard.

20 4. That the proposed district, if incorporated, shall
21 have no power or authority to levy any taxes whatsoever.

22 Sec. 5. At the time and place set for the hearing on the
23 petition, any owner or occupant of land within the boundaries
24 of the area described in the petition for incorporation of the
25 proposed district may appear, in person or by his designated
26 representative, and any representative of the council may also
27 appear, in favor of or in opposition to the incorporation and
28 organization of the proposed district. Such appearances may
29 also be filed in writing prior to the time set for the hear-
30 ing.

31 Sec. 6. At the conclusion of the hearing, it shall be the
32 duty of the supervisors to ascertain whether:

33 1. Proper notice of the hearing has been given, as re-
34 quired by this Act.

35 2. All or a substantial part of the land within the area

1 described within the petition for incorporation of the pro-
2 posed district is in fact without an adequate water supply.

3 3. The construction and maintenance of one or more dams
4 or wells, a water distribution system, and such other works
5 as may be required in connection therewith, is necessary in
6 order to provide said lands an adequate water supply.

7 4. The proposed improvements will in fact be conducive
8 to and tend to promote the public health, convenience, and
9 welfare.

10 If the supervisors' findings on each of the foregoing
11 points are positive, they shall thereupon declare the area
12 within the boundaries described within the petition to con-
13 stitute a quasi-municipal corporation and to be incorporated
14 as a body politic under the name "rural water district
15 no. county (counties), Iowa," (inserting
16 number in order of incorporation and name of county or
17 counties), with perpetual succession unless dissolved as
18 provided by this Act. The supervisors shall prepare and
19 preserve a full record of their hearing on the petition,
20 their findings, and their action thereon.

21 *Sec. 7. Immediately after the granting of incorporation*
22 *by the supervisors, or at such time not more than thirty days*
23 *later as may be agreed upon by a majority of the members of*
24 *the district present at the supervisors' hearing on the peti-*
25 *tion, the members shall meet to select from their number*
26 *a board of directors. The number of directors on the board,*
27 *not to exceed nine, shall be determined by a majority vote*
28 *of those members present. Any member elected a director who*
29 *shall fail to become a participating member, within thirty*
30 *days after entry in the minutes of the board of a declaration*
31 *of availability of benefit units for subscription, shall*
32 *forfeit his office.*

33 *Sec. 8. Within thirty days after election of the original*
34 *board, proposed bylaws shall be submitted for adoption at a*
35 *special meeting of members of the district, written notice*

1 of which shall be mailed to each member. Members present at
2 the special meeting may adopt or amend any of the proposed
3 bylaws, and may propose and adopt alternative or additional
4 bylaws. The bylaws may subsequently be amended at any annual
5 or special meeting of the participating members of the dis-
6 trict. However, the bylaws of each district shall provide:

7 1. For an annual meeting of participating members between
8 January first and March first of each year following the year
9 of incorporation of the district, and for the mailing of
10 written notice of the time and place of each annual meeting
11 to each participating member and publication of such notice
12 in a newspaper of general circulation in the district not
13 less than ten nor more than thirty days prior to each such
14 meeting.

15 2. That each participating member of the district shall
16 be entitled to a single vote at all annual and special meet-
17 ings of the district, regardless of the number of benefit
18 units to which he has subscribed.

19 Sec. 9. The initial board of each district shall divide
20 its members by lot into three classes of as nearly equal size
21 as possible. The terms of the directors in the first, second,
22 and third classes shall expire on the dates of the annual
23 meetings in the first, second, and third years, respectively.
24 following the year in which the district is incorporated, or
25 as soon thereafter as their respective successors are elected
26 and qualified. At the annual meeting in each year after the
27 year in which the district is incorporated, a director shall
28 be elected to succeed each director whose term of office
29 expires on that date, and each director so elected shall
30 hold office for a term of three years and until his successor
31 is elected and has qualified. Vacancies shall be filled by
32 appointment by the remaining directors, for the unexpired
33 term.

34 Sec. 10. The board shall meet annually on the same day
35 as, and immediately following, the annual meeting of partici-

1 participating members, and may meet at such other times as it may
2 determine, or upon the call of the chairman or any two di-
3 rectors. At the first meeting of the initial board following
4 its election, and at each succeeding annual board meeting,
5 the board shall elect a chairman, vice chairman, secretary,
6 and treasurer for the ensuing year.

7 Sec. 11. The board shall be the governing body of the
8 district, and shall:

9 1. Adopt such rules and regulations in conformity with
10 the provisions of this Act and the bylaws of the district as
11 are deemed necessary for the conduct of the business of the
12 district.

13 2. Maintain at its office a record of the district's pro-
14 ceedings, rules and regulations, and any decisions and orders
15 made pursuant to the provisions of this Act, and furnish
16 copies thereof to the supervisors or the council upon request.

17 3. Employ, appoint, or retain attorneys, engineers, other
18 professional and technical employees, and such other personnel
19 as are deemed necessary, and approve bonds of district em-
20 ployees.

21 4. Prior to each annual meeting of participating members:

22 a. Prepare an estimated budget for the coming year, and
23 adjust water rates if necessary in order to produce the
24 revenue required to fund the estimated budget, and make a
25 report thereon at the annual meeting.

26 b. Have an audit made of the district's records and
27 accounts, and make copies of the audit report available to
28 all participating members attending the annual meeting and to
29 any other participating member who so requests.

30 5. Have authority to acquire by gift, lease, purchase,
31 grant, inheritance, or by eminent domain proceedings, any
32 property, real or personal, in fee or a lesser interest needed
33 to achieve the purposes for which the district was incorpo-
34 rated and to sell and convey property owned, but no longer
35 needed, by the district.

1 6. Have authority to construct, operate, maintain, repair,
2 and when necessary to enlarge or extend, such ponds, reser-
3 voirs, pipelines, wells, check dams, pumping installations,
4 or other facilities for the storage, transportation, or utili-
5 zation of water, and such appurtenant structures and equip-
6 ment, as may be necessary to carry out the purposes for which
7 the district was incorporated.

8 7. Have power to cooperate with and enter into such agree-
9 ments as deemed necessary with any agency of the federal
10 government, and to accept such financial or other aid as
11 any agency of the federal government may be empowered to
12 provide to the district.

13 8. Have power to finance up to ninety percent of the cost
14 of the construction or purchase of any project or projects
15 necessary to carry out the purposes for which the district
16 is incorporated, provided the balance of the cost of construc-
17 tion or purchase is acquired by subsection, donation, gift,
18 or otherwise than through the medium of loans, or to refinance
19 up to ninety percent of the original cost of any such project
20 or projects, by either of the following methods:

21 a. Execution of notes and mortgages in evidence thereof
22 with interest, or combined interest and mortgage insurance
23 charges, not to exceed six percent per annum.

24 b. Issuance of revenue bonds which shall mature in a
25 period not to exceed forty years from date of issuance, shall
26 bear interest at a rate not to exceed six percent per annum,
27 shall be payable only from revenue derived from sale of water
28 by the district, and shall never become or be construed to be
29 a debt against the state of Iowa or any of its political sub-
30 divisions other than the district issuing the bonds.

31 Sec. 12. As soon as reasonably possible after incorpora-
32 tion of a district, the board shall file with the supervisors
33 and the council copies of the plans and specifications for,
34 and estimates of the cost of, any improvements authorized by
35 this Act which the board proposes to construct or acquire.

1 The total cost of the proposed improvements shall be divided
2 by the board into a suitable number of benefit units, and a
3 unit fee shall be established. The board shall enter upon
4 its minutes a declaration that the prescribed number of bene-
5 fit units are available for subscription, stating the fee
6 established therefor, and shall mail a copy of the declara-
7 tion to each member.

8 Sec. 13. Each member of a district may subscribe to a
9 number of benefit units of such district in proportion to the
10 extent he desires to participate in the benefits of the dis-
11 trict's improvements. So long as the capacity of the dis-
12 trict's facilities permits, participating members of the dis-
13 trict may at any time subscribe to additional benefit units
14 upon payment of the established unit fee for each such unit.
15 Members who do not become participating members within thirty
16 days after entry in the board's minutes of the declaration of
17 availability of benefit units, may at any later date sub-
18 scribe to such units as the board in its discretion may per-
19 mit and, upon payment of the established unit fee for each
20 such unit, shall be entitled to the same rights as original
21 participating members. If the capacity of the district's
22 facilities permits, the district may sell water to persons
23 engaged in hauling water and to any incorporated city or
24 town.

25 Sec. 14. Owners of land outside any district which can
26 economically be served by the facilities of the district may
27 petition to be attached to the district. The petition there-
28 for shall be filed with the auditor, and the auditor and
29 supervisors shall proceed thereon, in substantially the same
30 manner as is provided by this Act for filing of a petition
31 for incorporation and organization of a district, except that
32 the required notice shall be sent by registered mail to all
33 participating members of the district, as shown on the dis-
34 trict's record, as well as to owners of all unincorporated
35 tracts of land in the area proposed to be attached to the

1 district.

2 Sec. 15. At the conclusion of the hearing on the petition
3 for attachment of additional land to the district, the super-
4 visors shall, in addition to making the findings required by
5 section five (5) of this Act, ascertain whether:

6 1. The additional land which it is proposed to attach to
7 the district can in fact economically be served by the facili-
8 ties of the district, either as such facilities then exist
9 or as they may feasibly be enlarged or extended.

10 2. It appears from all information available to the super-
11 visors that neither the board nor a majority of the participat-
12 ing members of the district object to the proposed attachment
13 of additional land to the district.

14 If each of the findings made by the supervisors pursuant
15 to section five (5) of this Act and to subsections one (1)
16 and two (2) of this section are positive, the supervisors
17 shall order the additional land described in the petition
18 attached to the district. Owners of land within the area so
19 attached shall thereupon become members of the district, and
20 shall be entitled to subscribe to such benefit units upon
21 such terms and conditions as the board in its discretion may
22 provide. Any such member who shall subscribe to one or more
23 benefit units, and comply with such terms and conditions as
24 may be prescribed by the board, shall be entitled to the same
25 rights as other participating members.

26 Sec. 16. No district shall have any power to levy any
27 taxes. Neither the facilities constructed or otherwise
28 acquired by any district, including but not limited to ponds,
29 reservoirs, pipelines, wells, check dams, and pumping installa-
30 tions, the revenues obtained by the district from the sale of
31 water, nor the revenue bonds or interest therefrom issued by
32 any district shall be taxable in any manner by the state of
33 Iowa or any of its political subdivisions.

34 Sec. 17. No incorporated city or town shall become or be
35 construed to be a part of any district, regardless of whether

1 or not the description of the area to be incorporated con-
2 tained in the petition for establishment of the district speci-
3 fically excluded the territory of any incorporated city or
4 town lying wholly or partially within the district. However,
5 this section shall not be construed to prevent any incorporated
6 city or town from contracting with a district to supply the
7 city or town with water under such conditions as may be
8 mutually agreeable and not otherwise prohibited by law.

9 Sec. 18. If it becomes apparent that certain lands in-
10 cluded within a district cannot economically or adequately
11 be served by the facilities of the district, the owners of
12 such lands may file with the auditor a petition to the super-
13 visors requesting that those lands be detached from the dis-
14 trict. The petition shall:

15 1. Describe by section, or fraction thereof, and by town-
16 ship and range, the lands which it is proposed to detach from
17 the district.

18 2. State that such lands cannot economically or adequately
19 be served by the facilities of the district, and that it is
20 not feasible for the district to enlarge or extend its facili-
21 ties so as to economically and adequately serve such lands.

22 3. Be signed by the owners of all of the lands which it is
23 desired to detach from the district.

24 4. Be endorsed by the district board.

25 Sec. 19. A petition may be filed with the auditor request-
26 ing the supervisors to dissolve an inactive district. The
27 petition shall:

28 1. State that the district owns no property of any kind
29 exclusive of records, maps, plans, and files, and that all
30 of its debts and obligations have been fully paid.

31 2. State that the board has not held a meeting for more
32 than one year prior to the date of filing of the petition,
33 that the district is not functioning, and will probably con-
34 tinue to be inoperative.

35 3. Be signed by three-fourths of the members of the dis-

1 trict.

2 Sec. 20. Upon the filing with the auditor of a petition
3 under either section eighteen (18) or section nineteen (19)
4 of this Act, the auditor shall so inform the supervisors who
5 shall fix a time for consideration of the petition. The super-
6 visors may, but shall not be required to, hold a hearing
7 thereon. After consideration of the petition, and after the
8 hearing if one is held, the supervisors shall ascertain
9 whether:

10 1. The petition meets all of the requirements prescribed
11 by this Act for such petition.

12 2. It appears from all information available to the super-
13 visors that each allegation included in the petition is
14 factual.

15 If the supervisors' finding on each of the foregoing points
16 is positive, it shall declare the lands described in the peti-
17 tion detached from the district, or declare the district dis-
18 solved, as the case may be. The supervisors shall notify the
19 secretary of the district of its action, and the secretary
20 shall amend the records of the district to show that the land
21 described in the petition has been detached from the district,
22 or shall within thirty days deliver to the auditor all records,
23 maps, plans, and files of the district dissolved, as the case
24 may be.

25 Sec. 21. Nothing in this Act shall be construed to exempt
26 any district from the requirements of any other statute,
27 whether enacted prior to or subsequent to the effective date
28 of this Act, under which the district is required to obtain
29 the permission or approval of, or to notify, the council, the
30 Iowa commerce commission, or any other agency of this state or
31 of any of its political subdivisions prior to proceeding with
32 construction, acquisition, operation, enlargement, extension,
33 or alteration of any works or facilities which the district
34 is authorized to undertake pursuant to this Act.

35 Sec. 22. A nonprofit corporation incorporated under the

1 laws of the state of Iowa for the specific purpose of operating
2 a rural water district may petition the supervisors for incor-
3 poration of a district, in the manner provided by section two
4 (2) of this Act. The signatures of the corporation's officers
5 on the petition shall suffice in lieu of signatures of owners
6 of fifty percent of the privately-owned agricultural land in
7 the proposed district, provided the corporation presents
8 evidence satisfactory to the supervisors that a sufficient
9 number of members of the proposed district will subscribe to
10 benefit units thereof to make its operation feasible. The
11 procedure for hearing and determination of disposition of the
12 petition shall be as provided by this Act. In any district
13 incorporated upon the petition of a nonprofit corporation,
14 the officers and board of directors of the corporation shall
15 be the officers and board of the district. The applicable
16 laws of the state and the articles of incorporation and by-
17 laws of the corporation shall control the size, term of of-
18 fice, and time of election of such officers and board, in
19 lieu of sections seven (7), nine (9), and ten (10) of this
20 Act.

EXPLANATION OF SENATE FILE 372

This bill allows farmers and other living outside incorporated areas to jointly provide for themselves adequate supplies of water for drinking and other domestic purposes, by setting up special districts which could develop the necessary sources of water either by drilling deep wells or by damming streams, and laying the necessary mains, etc. to take the water to the users. These districts would have no taxing power whatever, and would support themselves entirely by sale of water.

In some areas of the state, farmers have been forced to drill wells hundreds of feet in depth in order to find a water supply. In other areas, it has been necessary for rural residents to haul water considerable distances for extended periods of time. In these circumstances, the alternative of helping to finance the establishment and operation of a rural water district may be quite feasible from an economic point of view, as well as assuring a much more reliable and convenient supply of water.

1 Senate File three hundred seventy-two (372) is hereby amended
2 as follows:

3 1. By striking from lines one (1) and two (2) on page two (2)
4 the words "acreage in the county", and inserting in lieu thereof
5 the words "district acreage".

6 2. By inserting in line twenty-six (26) on page five (5),
7 after the word "and", the word "have".

8 3. By striking from line seventeen (17) on page eight (8)
9 the comma after the word "units".

10 4. By striking from line five (5) on page nine (9) the word
11 and figure "five (5)", and inserting in lieu thereof the word and
12 figure "six (6)".

13 5. By striking from line fifteen (15) on page nine (9) the
14 word and figure "five (5)", and inserting in lieu thereof the
15 word and figure "six (6)".

Filed
March 10, 1969

By SMITH and FLATT
