

Local Government
Waldstein, Chair
C. Miller
Wells

FILED FEB 17 1984

SENATE FILE 2197

BY WALDSTEIN

Passed Senate, Date 3-8-84 (p. 746) Passed House, Date 3-27-84 (p. 1344)
Vote: Ayes 47 Nays 0 Vote: Ayes 91 Nays 6
Approved April 10, 1984

A BILL FOR

1 An Act relating to the establishment and dissolution of a
2 sanitary district.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

S. 2197

1 Section 1. Section 358.4, Code 1983, is amended by striking
2 the section and inserting in lieu thereof the following:

3 358.4 DATE AND NOTICE OF HEARING.

52924 1. The board of supervisors to which the petition is
5 addressed, at its next meeting, shall set the time and place
6 for a hearing on the petition. The board shall direct the
7 county auditor in whose office the petition is filed to cause
8 notice to be given to all persons whom it may concern, without
9 naming them, of the pendency and content of the petition,
10 by publication of a notice once each week for two consecutive
11 weeks in a newspaper of general circulation published in the
12 proposed district, the last of which publications shall not
13 be less than twenty days prior to the date set for the hearing
14 of the petition. If a newspaper is not published in the
15 proposed district, publication may be accomplished by posting
16 at least five copies of the notice in the proposed district
17 at least twenty days before the hearing. Proof of giving
18 the notice shall be made by affidavit of the publisher or
19 affidavit of the person who posted the notices, and the proof
20 shall be on file with the county auditor at the time the
21 hearing begins. The notice of hearing shall be directed to
22 all persons it may concern, and shall state:

23 a. That a petition has been filed with the county auditor
24 of the county, naming it, for establishment of a proposed
25 sanitary district, and the name of the proposed district.

26 b. An intelligible description of the boundaries of the
27 territory to be embraced in the district.

28 c. The date, hour, and the place where the petition will
29 come on for hearing before the board of supervisors of the
30 named county.

31 d. That the board of supervisors will fix and determine
32 the boundaries of the proposed district as described in the
33 petition or otherwise, and for that purpose may alter and
34 amend the petition. At the hearing all interested persons
35 shall have an opportunity to be heard on the location and

1 boundaries of the proposed district and to make suggestions
2 regarding the location and boundaries.

3 2. For a district which does not include land within a
4 city, copy of the notice shall also be sent by mail to each
5 owner, without naming them, of each tract of land or lot
6 within the proposed district as shown by the transfer books
7 of the auditor's office. The mailings shall be to the last
8 known mailing address unless there is on file an affidavit
9 of the auditor or of a person designated by the board to make
10 the necessary investigation, stating that a mailing address
11 is not known and that diligent inquiry has been made to
12 ascertain it. The copy of notice shall be mailed no less
13 than twenty days before the day set for hearing and proof
14 of service shall be by affidavit of the auditor. The proofs
15 of service required by this subsection shall be on file at
16 the time the hearing begins.

17 3. In lieu of the mailing to the last known address a
18 person owning land affected by a proposed district may file
19 with the county auditor an instrument in writing designating
20 the address for the mailing. This designation when filed
21 is effective for five years and applies to all proceedings
22 under this chapter. The person making the designation may
23 change the address in the same manner as the original
24 designation is made.

25 4. In lieu of publication, personal service of the notice
26 may be made upon an owner of land in the proposed district
27 in the manner and for the time required for service of original
28 notices in the district court. Proof of the service shall
29 be on file with the auditor on the date of the hearing.

30 Sec. 2. Section 358.5, Code 1983, is amended to read as
31 follows:

527232 358.5 HEARING OF PETITION AND ORDER. The board of
33 supervisors to whom the petition is addressed shall preside
34 at the hearing provided for in section 358.4 and shall continue
35 the same hearing in session, with adjournments from day to

1 day, if necessary, until completed, without being required
2 to give any further notice ~~thereof~~ of the hearing. Proof
3 of the ~~residence~~ residences and ~~qualification~~ qualifications
4 of the petitioners as eligible electors shall be made by
5 affidavit or otherwise as the board may direct. ~~Said~~ The
6 board ~~shall have power and authority to~~ may consider the
7 boundaries of ~~any such~~ a proposed sanitary district, whether
8 ~~the same~~ they shall be as described in ~~such~~ the petition or
9 otherwise, and for that purpose may alter and amend ~~such~~ the
10 petition and limit or change the boundaries of the proposed
11 district as stated in the petition. The board shall adjust
12 the boundaries of a proposed district as needed to exclude
13 land that has no reasonable likelihood of benefit from
14 inclusion in the proposed district. The boundaries of any
15 a proposed district shall not be changed to incorporate ~~therein~~
16 any property not included in the original petition and
17 published notice until the owner ~~or owners~~ of ~~said~~ the property
18 ~~shall be~~ is given notice ~~thereof~~ of inclusion as on the
19 original hearing. All persons in ~~such~~ the proposed district
20 shall have an opportunity to be heard ~~touching~~ regarding the
21 location and boundaries of the proposed district and to make
22 suggestions regarding the ~~same~~ location and boundaries, and
23 ~~said~~ the board of supervisors, after hearing the statements,
24 evidence and suggestions made and offered at the hearing,
25 shall enter an order fixing and determining the limits and
26 boundaries of ~~such~~ the proposed district and directing that
27 an election be held for the purpose of submitting to the
28 qualified electors resident within the boundaries of the
29 proposed district the question of organization and
30 establishment of the proposed sanitary district as determined
31 by ~~said~~ the board of supervisors. The order shall fix a date
32 for the election not more than sixty days after the date of
33 the order, establish voting precincts within the proposed
34 district and define their boundaries and specify the polling
35 places ~~therein~~ as which in the board's judgment will best

1 serve the convenience of the voters, and shall appoint from
2 residents of the proposed district three judges and two clerks
3 of election for each voting precinct established. It shall
4 ~~not be~~ is not mandatory for the county commissioner of
5 elections to conduct an election held pursuant to this section,
6 but it shall be conducted in accordance with ~~the provisions~~
7 of chapter 49 where not in conflict with this chapter.

8 Sec. 3. Section 358.9, Code 1983, is amended by adding
9 after unnumbered paragraph 2 the following new unnumbered
10 paragraph:

11 NEW UNNUMBERED PARAGRAPH. However, for districts formed
12 after July 1, 1984, successors to the initial trustees shall
13 be elected at the next general election. Vacancies shall
14 be filled by the remaining trustees in the same manner as
15 city council members as provided in section 372.13, subsection
16 2.

17 Sec. 4. NEW SECTION. 358.40 DISSOLUTION.

18 1. After three years from the establishment of a sanitary
19 sewer district, a petition may be filed in the office of the
20 county auditor, addressed to the board of supervisors, signed
21 by a majority of persons owning land in the district and who
22 in aggregate own at least sixty percent of the land in the
23 district. The petition shall include the above facts and
24 recite each of the following:

25 a. That more than three years has passed since the date
26 of the election which established the district.

27 b. That there are no bonds or other evidences of
28 indebtedness outstanding against the district, or if there
29 is indebtedness, the petition shall contain a plan of
30 dissolution which makes adequate provisions for payment of
31 the indebtedness.

32 c. That a construction contract has not been let or work
33 done on any improvements in the district or if either has
34 occurred, the petition shall contain a plan of dissolution
35 which makes adequate provisions for payment of the contract

1 price or for the work.

2 2. All costs and expenses of the district shall be assessed
3 against the district before dissolution by the levy of an
4 annual tax necessary to accomplish payment, but the levy shall
5 not exceed the rate provided in this section.

6 3. The board shall examine the petition at its next meeting
7 after its filing or within twenty days of the filing, whichever
8 date is earlier. Within ten days of the meeting, the board
9 shall publish notice of the petition and the date, time, and
10 place of the meeting at which time the board proposes to take
11 action on the petition. The notice shall be published in
12 a newspaper of general circulation published in the district
13 and, if no newspaper is published within the district, in
14 a newspaper published in the county in which the major part
15 of the district is located. At the board's meeting, or
16 subsequent meetings as necessary, if the petition is found
17 to comply with the requirements of this section and the board
18 of trustees consents by majority vote, the board of supervisors
19 may provide for payment as requested or modify the method
20 of payment of costs and expenses.

21 4. If the board decides that dissolution is warranted
22 for the best interest of the public, it shall publish a notice
23 in a newspaper of general circulation published in the district
24 or, if no newspaper is published in the district, in a
25 newspaper published in the county in which the major part
26 of the district is located and give notice by mail to all
27 known claimants or creditors of the district that it will
28 receive and adjudicate claims against the district for four
29 months from the date the notice is published and shall levy
30 an annual tax as necessary against all property in the district
31 for the number of years required to pay all claims allowed.
32 However, the annual tax levied under this subsection shall
33 not exceed four dollars per thousand dollars of assessed
34 valuation of the taxable property within the district at the
35 time of dissolution. The levy shall be made in the same

1 manner as provided in section 76.2. After the board makes
2 a specific finding that all indebtedness, costs, and expenses
3 have been paid or levies approved for their payment, the board
4 may dissolve the district by resolution entered upon its
5 records. The dissolution order shall be noted by the auditor
6 on the county records, showing the date when the dissolution
7 became effective.

8 5. The records of a dissolved district including, but
9 not limited to, copies of all engineering files and work
10 undertaken by engineers of a dissolved district, shall be
11 deposited with the county auditor of the county designated
12 by the board. Any remaining balances shall be deposited in
13 the general fund of the county designated by the board. All
14 other assets of the dissolved district shall become, by
15 dissolution, assets of the county.

16 6. An action shall not be commenced to contest action
17 of the board of supervisors under this section in adjudicating
18 claims, providing for the levy of a tax, or dissolving the
19 district unless it is brought within thirty days of the entry
20 of the dissolution order on the county record.

21 EXPLANATION

22 This bill provides additional methods of giving notice
23 to landowners of a proposal to establish a sanitary sewer
24 district in an unincorporated area of a county. These include
25 mailing notice to the last known address of the owner on the
26 transfer books of the county auditor, mailing to an address
27 designated by the owner, or notice in the same manner as for
28 service of original notices in the district court.

29 The board of supervisors is authorized to exclude land
30 from a proposed district if it is unlikely that the land will
31 benefit from the district.

32 The bill also provides procedures for dissolution of a
33 sanitary sewer district.

34 The bill takes effect July 1 following its enactment.

35

S-5292

1 Amend Senate File 2197 as follows:

2 1. Page 1, line 11, by inserting after the word
3 "the" the words "county in which the".

4 2. Page 1, line 12, by inserting after the word
5 "district" the words "is located".

6 3. Page 1, by striking lines 14 through 17 and
7 inserting in lieu thereof the words "of the petition.
8 Proof of giving".

9 4. Page 1, lines 18 and 19, by striking the words
10 "or affidavit of the person who posted the notices,".

11 5. Page 3, by striking lines 26 through 31 and
12 inserting in lieu thereof the following: "boundaries
13 of such the proposed district and directing that an
14 election be held for the purpose of submitting to
15 the qualified electors resident owning land within
16 the boundaries of the proposed district the question
17 of organization and establishment of the proposed
18 sanitary district as determined by said board of
19 supervisors. The order shall fix a date".

20 6. By striking page 3, line 33 through page 4,
21 line 7 and inserting in lieu thereof the following:
22 ~~"the order--establish-voting-precincts-within-the~~
23 ~~proposed-district-and-define-their-boundaries-and~~
24 ~~specify-the-polling-places-therein-as-in-the-board's~~
25 ~~judgment-will-best-serve-the-convenience-of-the-voters,~~
26 ~~and-shall-appoint-from-residents-of-the-proposed~~
27 ~~district-three-judges-and-two-clerks-of-election-for~~
28 ~~each-voting-precinct-established---it-shall-not-be~~
29 ~~mandatory-for-the-county-commissioner-of-elections~~
30 ~~to-conduct-an-election-held-pursuant-to-this-section,~~
31 ~~but-it-shall-be-conducted-in-accordance-with-the~~
32 ~~provisions-of-chapter-49-where-not-in-conflict-with~~
33 ~~this-chapter.~~

34 However, a majority of the landowners, owning in
35 the aggregate more than seventy percent of the total
36 land in the proposed district, may file a written
37 remonstrance against the proposed district at or
38 before the time fixed for the hearing on the proposed
39 district with the county auditor. If the remonstrance
40 is filed, the board of supervisors shall discontinue
41 all further proceedings on the proposed district and
42 charge the costs incurred to date relating to the
43 establishment of the proposed district."

44 7. Page 4, line 13, by inserting after the word
45 "election" the words "or at an annual meeting of the
46 board of trustees called for that purpose. Upon
47 petition of a majority of the landowners owning more
48 than fifty percent of the total land in the district,
49 the board of trustees shall call an annual meeting
50 of the residents of the district to elect successors

Page 2

1 to trustees of the board".

SENATE FILE 2197

S-5305

- 1 Amend Senate File 2197 as follows:
- 2 1. Page 6, line 4, by striking the word "may"
- 3 and inserting in lieu thereof the word "shall".

S-5305 FILED
MARCH 8, 1984
ADOPTED (p 744

BY ARNE WALDSTEIN

Local Government: Black, Chair: Cooper and Lageschulte.

Do Pass 3/23 (p. 1249)

SENATE FILE

2197

BY WALDSTEIN

(AS AMENDED AND PASSED BY THE SENATE MARCH 8, 1984)

Passed Senate, Date 3-8-84 (p. 746)

Passed House, Date 3-27-84 (p. 1344)

Vote: Ayes 47 Nays 6

Vote: Ayes 91 Nays 6

Approved April 10, 1984 (p. 1464)

A BILL FOR

1 An Act relating to the establishment and dissolution of a
2 sanitary district.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

~~_____~~ = New Language
by the Senate

* = Language Stricken
by the Senate

1 Section 1. Section 358.4, Code 1983, is amended by striking
2 the section and inserting in lieu thereof the following:

3 358.4 DATE AND NOTICE OF HEARING.

4 1. The board of supervisors to which the petition is
5 addressed, at its next meeting, shall set the time and place
6 for a hearing on the petition. The board shall direct the
7 county auditor in whose office the petition is filed to cause
8 notice to be given to all persons whom it may concern, without
9 naming them, of the pendency and content of the petition,
10 by publication of a notice once each week for two consecutive
11 weeks in a newspaper of general circulation published in the
12 county in which the proposed district is located, the last
13 of which publications shall not be less than twenty days prior
14 to the date set for the hearing of the petition. Proof of
15 giving the notice shall be made by affidavit of the publisher

* 16 and the proof shall be on file with the county auditor at
17 the time the hearing begins. The notice of hearing shall
18 be directed to all persons it may concern, and shall state:
19 a. That a petition has been filed with the county auditor
20 of the county, naming it, for establishment of a proposed
21 sanitary district, and the name of the proposed district.
22 b. An intelligible description of the boundaries of the
23 territory to be embraced in the district.
24 c. The date, hour, and the place where the petition will
25 come on for hearing before the board of supervisors of the
26 named county.
27 d. That the board of supervisors will fix and determine
28 the boundaries of the proposed district as described in the
29 petition or otherwise, and for that purpose may alter and
30 amend the petition. At the hearing all interested persons
31 shall have an opportunity to be heard on the location and
32 boundaries of the proposed district and to make suggestions
33 regarding the location and boundaries.

34 2. For a district which does not include land within a
35 city, copy of the notice shall also be sent by mail to each

1 owner, without naming them, of each tract of land or lot
2 within the proposed district as shown by the transfer books
3 of the auditor's office. The mailings shall be to the last
4 known mailing address unless there is on file an affidavit
5 of the auditor or of a person designated by the board to make
6 the necessary investigation, stating that a mailing address
7 is not known and that diligent inquiry has been made to
8 ascertain it. The copy of notice shall be mailed no less
9 than twenty days before the day set for hearing and proof
10 of service shall be by affidavit of the auditor. The proofs
11 of service required by this subsection shall be on file at
12 the time the hearing begins.

13 3. In lieu of the mailing to the last known address a
14 person owning land affected by a proposed district may file
15 with the county auditor an instrument in writing designating
16 the address for the mailing. This designation when filed
17 is effective for five years and applies to all proceedings
18 under this chapter. The person making the designation may
19 change the address in the same manner as the original
20 designation is made.

21 4. In lieu of publication, personal service of the notice
22 may be made upon an owner of land in the proposed district
23 in the manner and for the time required for service of original
24 notices in the district court. Proof of the service shall
25 be on file with the auditor on the date of the hearing.

26 Sec. 2. Section 358.5, Code 1983, is amended to read as
27 follows:

28 358.5 HEARING OF PETITION AND ORDER. The board of
29 supervisors to whom the petition is addressed shall preside
30 at the hearing provided for in section 358.4 and shall continue
31 the same hearing in session, with adjournments from day to
32 day, if necessary, until completed, without being required
33 to give any further notice thereof of the hearing. Proof
34 of the residence residences and qualification qualifications
35 of the petitioners as eligible electors shall be made by

1 affidavit or otherwise as the board may direct. Said The
2 ~~board shall have power and authority to~~ may consider the
3 boundaries of ~~any such~~ a proposed sanitary district, whether
4 ~~the same~~ they shall be as described in ~~such~~ the petition or
5 otherwise, and for that purpose may alter and amend ~~such the~~
6 petition and limit or change the boundaries of the proposed
7 district as stated in the petition. The board shall adjust
8 the boundaries of a proposed district as needed to exclude
9 land that has no reasonable likelihood of benefit from
10 inclusion in the proposed district. The boundaries of ~~any~~
11 a proposed district shall not be changed to incorporate ~~therein~~
12 ~~any~~ property not included in the original petition and
13 published notice until the owner ~~or owners~~ of ~~said the~~ property
14 ~~shall be~~ is given notice ~~thereof~~ of inclusion as on the
15 original hearing. All persons in ~~such the~~ proposed district
16 shall have an opportunity to be heard ~~touching~~ regarding the
17 location and boundaries of the proposed district and to make
18 suggestions regarding the ~~same~~ location and boundaries, and
19 ~~said the~~ board of supervisors, after hearing the statements,
20 evidence and suggestions made and offered at the hearing,
21 shall enter an order fixing and determining the limits and
22 boundaries of ~~such the~~ proposed district and directing that
23 an election be held for the purpose of submitting to the
24 qualified electors resident owning land within the boundaries
25 of the proposed district the question of organization and
26 establishment of the proposed sanitary district as determined
27 by said board of supervisors. The order shall fix a date
28 for the election not more than sixty days after the date of
29 the order, establish voting precincts within the proposed
30 district and define their boundaries and specify the polling
31 places therein as in the board's judgment will best serve
32 the convenience of the voters, and shall appoint from residents
33 of the proposed district three judges and two clerks of
34 election for each voting precinct established. It shall not
35 be mandatory for the county commissioner of elections to

1 ~~conduct an election held pursuant to this section, but it~~
2 ~~shall be conducted in accordance with the provisions of chapter~~
3 ~~49 where not in conflict with this chapter.~~

4 However, a majority of the landowners, owning in the
5 aggregate more than seventy percent of the total land in the
6 proposed district, may file a written remonstrance against
7 the proposed district at or before the time fixed for the
8 hearing on the proposed district with the county auditor.
9 If the remonstrance is filed, the board of supervisors shall
10 discontinue all further proceedings on the proposed district
11 and charge the costs incurred to date relating to the
12 establishment of the proposed district.

13 Sec. 3. Section 358.9, Code 1983, is amended by adding
14 after unnumbered paragraph 2 the following new unnumbered
15 paragraph:

16 NEW UNNUMBERED PARAGRAPH. However, for districts formed
17 after July 1, 1984, successors to the initial trustees shall
18 be elected at the next general election or at an annual meeting
19 of the board of trustees called for that purpose. Upon
20 petition of a majority of the landowners owning more than
21 fifty percent of the total land in the district, the board
22 of trustees shall call an annual meeting of the residents
23 of the district to elect successors to trustees of the board.
24 Vacancies shall be filled by the remaining trustees in the
25 same manner as city council members as provided in section
26 372.13, subsection 2.

27 Sec. 4. NEW SECTION. 358.40 DISSOLUTION.

28 1. After three years from the establishment of a sanitary
29 sewer district, a petition may be filed in the office of the
30 county auditor, addressed to the board of supervisors, signed
31 by a majority of persons owning land in the district and who
32 in aggregate own at least sixty percent of the land in the
33 district. The petition shall include the above facts and
34 recite each of the following:

35 a. That more than three years has passed since the date

1 of the election which established the district.

2 b. That there are no bonds or other evidences of
3 indebtedness outstanding against the district, or if there
4 is indebtedness, the petition shall contain a plan of
5 dissolution which makes adequate provisions for payment of
6 the indebtedness.

7 c. That a construction contract has not been let or work
8 done on any improvements in the district or if either has
9 occurred, the petition shall contain a plan of dissolution
10 which makes adequate provisions for payment of the contract
11 price or for the work.

12 2. All costs and expenses of the district shall be assessed
13 against the district before dissolution by the levy of an
14 annual tax necessary to accomplish payment, but the levy shall
15 not exceed the rate provided in this section.

16 3. The board shall examine the petition at its next meeting
17 after its filing or within twenty days of the filing, whichever
18 date is earlier. Within ten days of the meeting, the board
19 shall publish notice of the petition and the date, time, and
20 place of the meeting at which time the board proposes to take
21 action on the petition. The notice shall be published in
22 a newspaper of general circulation published in the district
23 and, if no newspaper is published within the district, in
24 a newspaper published in the county in which the major part
25 of the district is located. At the board's meeting, or
26 subsequent meetings as necessary, if the petition is found
27 to comply with the requirements of this section and the board
28 of trustees consents by majority vote, the board of supervisors
29 may provide for payment as requested or modify the method
30 of payment of costs and expenses.

31 4. If the board decides that dissolution is warranted
32 for the best interest of the public, it shall publish a notice
33 in a newspaper of general circulation published in the district
34 or, if no newspaper is published in the district, in a
35 newspaper published in the county in which the major part

1 of the district is located and give notice by mail to all
2 known claimants or creditors of the district that it will
3 receive and adjudicate claims against the district for four
4 months from the date the notice is published and shall levy
5 an annual tax as necessary against all property in the district
6 for the number of years required to pay all claims allowed.
7 However, the annual tax levied under this subsection shall
8 not exceed four dollars per thousand dollars of assessed
9 valuation of the taxable property within the district at the
10 time of dissolution. The levy shall be made in the same
11 manner as provided in section 76.2. After the board makes
12 a specific finding that all indebtedness, costs, and expenses
13 have been paid or levies approved for their payment, the board
14 shall dissolve the district by resolution entered upon its
15 records. The dissolution order shall be noted by the auditor
16 on the county records, showing the date when the dissolution
17 became effective.

18 5. The records of a dissolved district including, but
19 not limited to, copies of all engineering files and work
20 undertaken by engineers of a dissolved district, shall be
21 deposited with the county auditor of the county designated
22 by the board. Any remaining balances shall be deposited in
23 the general fund of the county designated by the board. All
24 other assets of the dissolved district shall become, by
25 dissolution, assets of the county.

26 6. An action shall not be commenced to contest action
27 of the board of supervisors under this section in adjudicating
28 claims, providing for the levy of a tax, or dissolving the
29 district unless it is brought within thirty days of the entry
30 of the dissolution order on the county record.

31

32

33

34

35

SF 2197
tj/slc/26c

SENATE FILE 2197

AN ACT

RELATING TO THE ESTABLISHMENT AND DISSOLUTION OF A SANITARY DISTRICT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 358.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

358.4 DATE AND NOTICE OF HEARING.

1. The board of supervisors to which the petition is addressed, at its next meeting, shall set the time and place for a hearing on the petition. The board shall direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and content of the petition, by publication of a notice once each week for two consecutive weeks in a newspaper of general circulation published in the county in which the proposed district is located, the last of which publications shall not be less than twenty days prior to the date set for the hearing of the petition. Proof of giving the notice shall be made by affidavit of the publisher and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state:

a. That a petition has been filed with the county auditor of the county, naming it, for establishment of a proposed sanitary district, and the name of the proposed district.

b. An intelligible description of the boundaries of the territory to be embraced in the district.

c. The date, hour, and the place where the petition will come on for hearing before the board of supervisors of the named county.

d. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition or otherwise, and for that purpose may alter and amend the petition. At the hearing all interested persons shall have an opportunity to be heard on the location and boundaries of the proposed district and to make suggestions regarding the location and boundaries.

2. For a district which does not include land within a city, copy of the notice shall also be sent by mail to each owner, without naming them, of each tract of land or lot within the proposed district as shown by the transfer books of the auditor's office. The mailings shall be to the last known mailing address unless there is on file an affidavit of the auditor or of a person designated by the board to make the necessary investigation, stating that a mailing address is not known and that diligent inquiry has been made to ascertain it. The copy of notice shall be mailed no less than twenty days before the day set for hearing and proof of service shall be by affidavit of the auditor. The proofs of service required by this subsection shall be on file at the time the hearing begins.

3. In lieu of the mailing to the last known address a person owning land affected by a proposed district may file with the county auditor an instrument in writing designating the address for the mailing. This designation when filed is effective for five years and applies to all proceedings under this chapter. The person making the designation may change the address in the same manner as the original designation is made.

4. In lieu of publication, personal service of the notice may be made upon an owner of land in the proposed district in the manner and for the time required for service of original notices in the district court. Proof of the service shall be on file with the auditor on the date of the hearing.

S.F. 2197

Sec. 2. Section 358.5, Code 1983, is amended to read as follows:

358.5 HEARING OF PETITION AND ORDER. The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 358.4 and shall continue the same hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice thereof of the hearing. Proof of the residence residences and qualification qualifications of the petitioners as eligible electors shall be made by affidavit or otherwise as the board may direct. ~~Said The~~ board shall have power and authority to may consider the boundaries of any-such a proposed sanitary district, whether the-same they shall be as described in such the petition or otherwise, and for that purpose may alter and amend such the petition and limit or change the boundaries of the proposed district as stated in the petition. The board shall adjust the boundaries of a proposed district as needed to exclude land that has no reasonable likelihood of benefit from inclusion in the proposed district. The boundaries of any a proposed district shall not be changed to incorporate therein any property not included in the original petition and published notice until the owner or-owners of said the property shall-be is given notice thereof of inclusion as on the original hearing. All persons in such the proposed district shall have an opportunity to be heard concerning regarding the location and boundaries of the proposed district and to make suggestions regarding the same location and boundaries, and said the board of supervisors, after hearing the statements, evidence and suggestions made and offered at the hearing, shall enter an order fixing and determining the limits and boundaries of such the proposed district and directing that an election be held for the purpose of submitting to the qualified electors resident owning land within the boundaries of the proposed district the question of organization and

establishment of the proposed sanitary district as determined by said board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order; ~~establish voting precincts within the proposed district and define their boundaries and specify the polling places therein as in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established. It shall not be mandatory for the county commissioner of elections to conduct an election held pursuant to this section, but it shall be conducted in accordance with the provisions of chapter 49 where not in conflict with this chapter.~~

However, a majority of the landowners, owning in the aggregate more than seventy percent of the total land in the proposed district, may file a written remonstrance against the proposed district at or before the time fixed for the hearing on the proposed district with the county auditor. If the remonstrance is filed, the board of supervisors shall discontinue all further proceedings on the proposed district and charge the costs incurred to date relating to the establishment of the proposed district.

Sec. 3. Section 358.9, Code 1983, is amended by adding after unnumbered paragraph 2 the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, for districts formed after July 1, 1984, successors to the initial trustees shall be elected at the next general election or at an annual meeting of the board of trustees called for that purpose. Upon petition of a majority of the landowners owning more than fifty percent of the total land in the district, the board of trustees shall call an annual meeting of the residents of the district to elect successors to trustees of the board. Vacancies shall be filled by the remaining trustees in the same manner as city council members as provided in section 372.13, subsection 2.

Sec. 4. NEW SECTION. 358.40 DISSOLUTION.

1. After three years from the establishment of a sanitary sewer district, a petition may be filed in the office of the county auditor, addressed to the board of supervisors, signed by a majority of persons owning land in the district and who in aggregate own at least sixty percent of the land in the district. The petition shall include the above facts and recite each of the following:

a. That more than three years has passed since the date of the election which established the district.

b. That there are no bonds or other evidences of indebtedness outstanding against the district, or if there is indebtedness, the petition shall contain a plan of dissolution which makes adequate provisions for payment of the indebtedness.

c. That a construction contract has not been let or work done on any improvements in the district or if either has occurred, the petition shall contain a plan of dissolution which makes adequate provisions for payment of the contract price or for the work.

2. All costs and expenses of the district shall be assessed against the district before dissolution by the levy of an annual tax necessary to accomplish payment, but the levy shall not exceed the rate provided in this section.

3. The board shall examine the petition at its next meeting after its filing or within twenty days of the filing, whichever date is earlier. Within ten days of the meeting, the board shall publish notice of the petition and the date, time, and place of the meeting at which time the board proposes to take action on the petition. The notice shall be published in a newspaper of general circulation published in the district and, if no newspaper is published within the district, in a newspaper published in the county in which the major part of the district is located. At the board's meeting, or subsequent meetings as necessary, if the petition is found

to comply with the requirements of this section and the board of trustees consents by majority vote, the board of supervisors may provide for payment as requested or modify the method of payment of costs and expenses.

4. If the board decides that dissolution is warranted for the best interest of the public, it shall publish a notice in a newspaper of general circulation published in the district or, if no newspaper is published in the district, in a newspaper published in the county in which the major part of the district is located and give notice by mail to all known claimants or creditors of the district that it will receive and adjudicate claims against the district for four months from the date the notice is published and shall levy an annual tax as necessary against all property in the district for the number of years required to pay all claims allowed. However, the annual tax levied under this subsection shall not exceed four dollars per thousand dollars of assessed valuation of the taxable property within the district at the time of dissolution. The levy shall be made in the same manner as provided in section 76.2. After the board makes a specific finding that all indebtedness, costs, and expenses have been paid or levies approved for their payment, the board shall dissolve the district by resolution entered upon its records. The dissolution order shall be noted by the auditor on the county records, showing the date when the dissolution became effective.

5. The records of a dissolved district including, but not limited to, copies of all engineering files and work undertaken by engineers of a dissolved district, shall be deposited with the county auditor of the county designated by the board. Any remaining balances shall be deposited in the general fund of the county designated by the board. All other assets of the dissolved district shall become, by dissolution, assets of the county.

6. An action shall not be commenced to contest action of the board of supervisors under this section in adjudicating claims, providing for the levy of a tax, or dissolving the district unless it is brought within thirty days of the entry of the dissolution order on the county record.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2197, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 10, 1984

TERRY E. BRANSTAD
Governor