

LOCAL GOVERNMENT: Taylor, Chair; C. Miller and Fraise

FILED JAN 20 1987

SENATE FILE 43
BY TAYLOR

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the resolution of disputes regarding the
2 repair of private drainage tile lines.

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

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SF 43

1 Section 1. NEW SECTION. 465.40 RESOLUTION OF DISPUTE
2 REGARDING REPAIR.

3 1. If a private drainage tile line serving land owned by
4 different persons is believed by one of those owners to be in
5 need of repair, the owner may request the township trustees to
6 determine the necessity of the repair and the division of the
7 cost of repair.

8 2. The trustees may determine any controversy arising
9 under this section, upon giving five days' notice in writing
10 to the opposite party or parties, prescribing the time and
11 place of meeting to hear and determine the matter named in the
12 notice. Upon request of any landowner, the trustees shall
13 give such notice to all adjoining landowners liable for the
14 repairing of a tile line.

15 3. At the time and place prescribed the trustees shall
16 meet and determine by written order the obligations, rights,
17 and duties of the respective parties in such matter, and
18 assign to each owner the part which the owner shall repair,
19 prescribe the time within which the repairs shall be completed
20 or paid for, and may specify the kind of repairs to be made.
21 If the tile line is not repaired within the time prescribed in
22 the order, the trustees shall require the complaining
23 landowner to deposit with the trustees a sum of money
24 sufficient to pay for the repairing of the tile line together
25 with the fees of the trustees and costs. Such complaining
26 landowner shall be reimbursed as soon as the taxes are
27 collected as provided in subsection 4.

28 4. If the repairing of the tile line is not completed
29 within thirty days from the time fixed in the order, the
30 trustees shall cause the tile to be repaired, and the value
31 may be fixed by the trustees, and unless the sum fixed,
32 together with all fees caused by the default, as taxed by the
33 trustees, is paid to the county treasurer, within ten days
34 after it is ascertained, the trustees shall certify to the
35 county auditor the full amount due from the party or parties

1 in default, including all fees and costs taxed, together with
2 a description of the real estate owned by the party or parties
3 in default along or upon which the tile line exists, and the
4 county auditor shall enter the same upon the tax list and the
5 amount shall be collected as other taxes.

6 5. The notice by the trustees provided for in this section
7 may be served upon any owner nonresident of the county where
8 the land is situated, by publication, once each week, for two
9 consecutive weeks in a newspaper printed in the county in
10 which the land is situated, proof of which shall be made as in
11 case of an original notice and filed with the trustees, and a
12 copy delivered to the occupant of the land, or to any agent of
13 the owner in charge of the land.

14 6. All orders and decisions made by the trustees shall be
15 in writing, signed by at least two of them, and filed with the
16 township clerk.

17 All notices in this section required to be given shall be
18 in writing, and return of service made in the same manner as
19 notices in actions before a judicial magistrate.

20 Such orders, decisions, notices, and returns shall be
21 entered of record at length by the township clerk, and a copy
22 certified by the township clerk to the county recorder, who
23 shall record the same in the recorder's office and index such
24 record in the name of each adjoining owner as grantor to the
25 other.

26 The record in the recorder's office, unless modified, by
27 appeal as provided, shall be conclusive evidence of the
28 matters therein stated, and such record or a certified copy
29 thereof shall be competent evidence in all courts.

30 7. When the adjoining lands are situated in different
31 townships in the same or different counties, the clerk of the
32 township of the owner making the application shall select two
33 trustees of the clerk's township as trustees, and the clerk of
34 the other township shall select one trustee from that clerk's
35 township. The selected trustees shall possess, in such case,

1 all the powers given to trustees in this section, but all
2 orders, notices, and valuations and taxation of costs made by
3 the trustee must be recorded in both townships and in the
4 office of the recorder of deeds of each county.

5 8. Any person affected by an order or decision of the
6 trustees may appeal to the district court by filing with the
7 clerk of the district court a notice of appeal within twenty
8 days after the rendition of the order or decision appealed
9 from and filing an appeal bond in an amount approved by the
10 township clerk. The township clerk, after recording the
11 original papers, shall file them in the office of the clerk of
12 the district court, certifying them to be such, and the clerk
13 shall docket them, entitling the applicant or petitioner as
14 plaintiff, and the case shall stand for trial as other cases.

15 Upon the final determination of the appeal the clerk of the
16 district court shall certify to the recorder of deeds the fact
17 that a judgment has been entered upon such appeal, designating
18 the entry of the judgment, and the recorder shall enter on the
19 recorder's record a notation that a judgment on appeal has
20 been entered and that it may be found in the office of the
21 clerk of the district court, in the entry designated in the
22 certificate.

23 The township clerk shall enter all matters required by this
24 section to be made of record in the clerk's record book, and
25 shall receive ten cents for each one hundred words in entering
26 of record and making certified copies of the matters, and
27 twenty-five cents additional for the clerk's certificate when
28 required, and shall also receive the costs of recording in the
29 office of the recorder of deeds of any instrument required to
30 be recorded.

31 9. This section does not apply to the extent a written
32 agreement governs the determination of the necessity of repair
33 or division of the costs among the landowners.

34 EXPLANATION

35 This bill provides that township trustees can resolve a

1 dispute regarding repairs to an existing private drainage tile
2 line serving more than one landowner. The township trustees
3 would resolve the matter under the same procedures used for
4 partition fence disputes.

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