CHAPTER 468

LEVEE AND DRAINAGE DISTRICTS AND IMPROVEMENTS

Referred to in §21.2, 22.1, 161F.6, 331.303, 437A.16, 456B.13, 460.101, 460.203

SUBCHAPTER I

ESTABLISHMENT

PART 1

GENERAL

468.1 Jurisdiction to establish.
468.2 Presumption and construction of laws.
468.3 Definitions.
468.4 General rule for location.
468.5 Location across railroad.
468.6 Number of petitioners required.
468.7 Request by nonpetitioners.
468.8 Petition.
468.9 Bond.
468.10 Engineer.
468.11 Survey.
468.12 Report.
468.13 Procedure on report — classification.
468.14 Notice of hearing.
468.15 Service by publication — copy mailed — proof.
468.16 Service on agent.
468.17 Personal service.
468.18 Waiver of notice.
468.19 Waiver of objections and damages.
468.20 Adjournment for service — jurisdiction retained.
468.21 Hearing of petition — dismissal.
468.22 Establishment — further investigation.
468.23 Settling basins — purchase or lease of lands.
468.24 Appraisers.
468.25 Assessment — report — adjournment — other appraisers.
468.26 Award by board.
468.27 Dismissal or establishment — permanent easement.
468.28 Dismissal on remonstrance.
468.29 Dissolution.
468.30 Permanent survey, plat and profile.
468.31 Paying or securing damages.
468.32 Division of improvement.
468.33 Supervising engineer — bond.
468.34 Advertisement for bids.
468.35 Bids — letting of work.
468.36 Performance bond — return of deposit.
468.37 Contracts.
468.38 Commissioners to classify and assess.
468.39 Duties — time for performance — scale of benefits.
468.40 Rules of classification.
468.41 Assessment for lateral ditches — reclassification of benefited lands.
468.42 Railroad property — collection.
468.43 Public highways and state-owned lands.
468.44 Report of commissioners.
468.45 Notice of hearing.
468.46 Hearing and determination.
468.47 Evidence — conclusive presumption.
468.48 Notice of increased assessment.
468.49 Classification as basis for future assessments.
468.50 Levy — interest.
468.51 Lien of tax.
468.52 Levy for deficiency.
468.53 Record of drainage taxes.
468.54 Funds — disbursement — interest.
468.55 Assessments — maturity and collection.
468.56 Payment of assessments.
468.57 Installment payments — waiver.
468.58 Installment payments after appeal.
468.59 Notice of half and full completion.
468.60 Lien of deferred installments.
468.61 Surplus funds — application of.
468.62 Change of conditions — modification of plan.
468.63 Drainage subdistrict.
468.64 Presumption — jurisdiction.
468.65 Reclassification.
468.66 Bids required.
468.67 Procedure governing reclassification.
468.68 Drainage warrants received for assessments.
468.69 Bonds received for assessments.
468.70 Installment assessments — interest-bearing warrants — improvement certificates.
468.71 Form, negotiability and effect.
468.72 Interest — place of payment.
468.73 Sale at par — right to pay.
468.74 Drainage bonds.
468.75 Form.
468.76 Amount — interest — maturity.
468.77 Maturity — interest — highway benefits.
468.78 Sale or application at par — premium.
468.79 Deficiency levy — additional bonds.
468.80 Funding or refunding indebtedness.
468.81 Record of bonds.
468.82 Payment.
468.83 Appeals.
468.84 Time and manner.

468.85 Transcript.
468.86 Petition — docket fee — waiver — dismissal.
468.87 Pleadings on appeal.
468.88 Proper parties — employment of counsel.
468.89 Plaintiffs and defendants.
468.90 Right of board and district to sue.
468.91 Trial on appeal — consolidation.
468.92 Conclusive presumption on appeal.
468.93 Order as to damages — duty of clerk.
468.94 Costs.
468.95 Decree as to establishing district or including lands.
468.96 Appeal as exclusive remedy — nonappellants.
468.97 Reversal by court — recision by board.
468.98 Setting aside establishment — procedure.
468.99 Reassessment to cure illegality.
468.100 Monthly estimate — payment.
468.101 Completion of work — report — notice.
468.102 Objections.
468.103 Final settlement — claims for damages.
468.104 Abandonment of work.
468.105 New contract — suit on bond.
468.106 Construction on or along highway.
468.107 Establishment of highways.
468.108 Bridges.
468.109 Construction across railroad.
468.110 Duty to construct.
468.111 Bridges at natural waterway — costs.
468.112 Construction when company refuses.
468.113 Cost of construction across railway.
468.114 Passing drainage equipment across railway.
468.115 Passage across other public utilities.
468.116 Failure to comply.
468.117 Expenses attending passage.
468.118 Abandoned right-of-way.
468.119 Annexation of additional lands.
468.120 Proceedings on report.
468.121 Levy on annexed lands.
468.122 Use of former and abandoned surveys.
468.123 Unsuccessful procedure — reestablishment.
468.124 New district including old district.
468.125 Credit for old improvement.
468.126 Repairs and improvements.
468.127 Payment.
468.128 Impounding areas and erosion control devices.
468.129 Revenues used for operation, maintenance and construction.
468.130 City may discharge treated sewage.
468.131 Reclassification required.
468.132 Improvement of common outlet — notice of hearing.
468.133 Commissioners to apportion benefits — interest prohibited.
468.134 Time of report — notice of hearing.
468.135 Report and review — appeal.
468.136 Levy under original classification.
468.137 Levy under reclassification.
468.138 Removal of obstructions.
468.139 Trees and hedges.
468.140 Outlet for lateral drains — specifications.
468.141 Subdistricts in intercounty districts.
468.142 District by mutual agreement — presumption.
468.143 What the agreement shall contain.
468.144 Board to establish.
468.145 Procedure.
468.146 Outlet in adjoining county or in another state.
468.147 Tax.
468.148 Injuring or diverting — damages.
468.149 Obstructing or damaging.
468.150 Nuisance — abatement.
468.151 Actions — settlement — counsel.
468.152 Waste banks — private use.
468.153 Preliminary expenses — how paid.
468.154 Additional help for auditor.
468.155 Employment of counsel.
468.156 Compensation of appraisers.
468.157 Payment.
468.158 Purchase at tax sale.
468.159 Tax deed — sale or lease.
468.160 Purchase of tax certificate.
468.161 Terms of redemption.
468.162 Payment — assignment of certificate.
468.163 Funds.
468.164 Lease or sale of land.
468.165 Duty of treasurer. Repealed by 2003 Acts, ch 24, §9.
468.166 Purchase by bondholder.
468.167 Voting power.
468.168 Inspection of improvements.
468.169 Watchpersons.
468.170 Technical defects.
468.171 Conclusive presumption of legality.
468.172 Drainage record.
468.173 Records belong to district.
468.174 Membership in the national drainage association.
468.175 Membership fee.
468.176 Other associations.
468.177 Receiver authorized.
468.178 Hearing and notice thereof.
468.179 Appointment — grounds.
468.180 Bond.
468.181 Avoidance of receivership.
468.182 Preference in leasing.
468.183 Rents — application of.

468.184 Land classification and assessment in district.
468.185 Repealed by 96 Acts, ch 1033, §1.
468.186 Easements through a drainage district.
468.187 Agreements with outside owners or other districts.
468.188 Public improvements which divide a district — procedure.
468.189 Closing agricultural drainage wells — assessment of costs within a drainage district.
468.190 Farm mediation not applicable.
468.191 through 468.200 Reserved.

PART 2

FEDERAL FLOOD CONTROL COOPERATION

468.201 Plan of improvement.
468.202 Agreement in advance.
468.203 Engineer appointed.
468.204 Engineer's report.
468.205 Supplemental reports.
468.206 Notice and hearing.
468.207 Form of notice.
468.208 Amendment — new parties.
468.209 Entry of order — effect.
468.210 Appraisement.
468.211 Assessment of benefits.
468.212 Installments — warrants.
468.213 Subsequent levies.
468.214 Applicable statutes.
468.215 Scope of plan.
468.216 Districts under trustees.
468.217 through 468.219 Reserved.

PART 3

INTERACTION WITH STATE AND LOCAL GOVERNMENTS

468.220 Occupancy and use permitted — assessments paid.
468.221 Written communication delivered to the state or a local government.
468.222 through 468.229 Reserved.

PART 4

BOARD OF COUNTY DRAINAGE ADMINISTRATORS

468.230 Administrators appointed.
468.231 Administrator areas.
468.232 Compensation.
468.233 How paid.
468.234 Soil and water conservation districts.
468.235 through 468.239 Reserved.

PART 5

COUNTY-CITY DRAINAGE DISTRICT

468.240 Supervisors of county over two hundred thousand may establish.
468.241 through 468.249 Reserved.

PART 6

DISSOLUTION OF DRAINAGE DISTRICTS

468.250 Jurisdiction to dissolve districts and abandon or transfer improvements.
468.251 Notice of hearing.
468.252 Hearing on petition.
468.253 Appeal.
468.254 Expense — refund.
468.255 Abandonment of rights-of-way.
468.256 Initiating dissolution of contained district.
468.257 Procedure for notice of hearing.
468.258 Procedure at hearing.
468.259 Election in lieu of hearings.
468.260 Effect of dissolution, surrender and acceptance.
468.261 Costs borne by overlying district.
468.262 through 468.269 Reserved.

SUBCHAPTER II

JURISDICTIONS

PART 1

INTERCOUNTY LEVEE OR DRAINAGE DISTRICTS

468.270 Petition and bond.
468.271 Commissioners.
468.272 Examination and report.
468.273 Duty of engineer.
468.274 Notice.
468.275 Contents of notice — service.
468.276 Claims for damages — filing — waiver.
468.277 Organization and procedure — adjournments.
468.278 Tentative adoption of plans.
468.279 Appraisers.
468.280 Duty of appraisers — procedure.
468.281 Meetings of joint boards.
468.282 Equalizing voting power.
468.283 Commissioners to classify and assess.
468.284 Notice and service thereof — objections.
468.285 Levies — certificates and bonds.
468.286 Bonds or proceeds made available.
468.287 Supervising engineer.
468.288 Duty of engineer.
468.289 Notice of letting work — applicable procedure.
468.290 Contracts.
468.291 Monthly estimate — payment.
468.292 Final settlement.
468.293 Failure of board to act.
468.294 Transfer to district court.
468.295 Transcript, docket and trial.
468.296 Decree.
468.297 Law applicable.
468.298 Records of intercounty districts.

468.299 County with largest acreage to keep funds.
468.300 through 468.304 Reserved.

PART 2

CONVERTING INTRACOUNTY DISTRICTS INTO INTERCOUNTY DISTRICT

468.305 Intracounty districts converted into intercounty district.
468.306 Benefited land only included.
468.307 Appeal by landowner.
468.308 Procedure on appeal.
468.309 Appeal by trustees or boards.
468.310 through 468.314 Reserved.

PART 3

DRAINAGE OR LEVEE DISTRICTS EMBRACING PART OR WHOLE OF CITY

468.315 Authority to include city.
468.316 Inclusion of city — notice.
468.317 Assessments — notice.
468.318 Objections — appeal.
468.319 Assessments — interest.
468.320 Bonds, certificates and waivers.
468.321 Funding bonds.
468.322 Jurisdiction relinquished.
468.323 Request for relinquishment.
468.324 Duty to accept.
468.325 Jurisdiction of municipality.
468.326 City council to control district.
468.327 Trustee control.
468.328 through 468.334 Reserved.

PART 4

HIGHWAY DRAINAGE DISTRICTS

468.335 Establishment.
468.336 Powers.
468.337 Initiation without petition.
468.338 Engineer.
468.339 Survey and report.
468.340 Assessment — report.
468.341 Advanced payments.
468.342 Payment from road funds.
468.343 Dismissal — costs.
468.344 Condemnation of right-of-way.
468.345 Laws applicable.
468.346 Removal of trees from highway.
468.347 Trees outside of highways.
468.348 through 468.354 Reserved.

PART 5

DRAINAGE AND LEVEE DISTRICTS WITH PUMPING STATIONS

468.355 Authorization.
468.356 Petition — procedure — emergency pumping station.
468.357 Additional pumping station.
468.358 Transfer of pumps.
468.359 Costs.
468.360 Dividing districts.
468.361 Notice — publication.
468.362 Hearing — jurisdiction of divided districts.
468.363 Division in other cases.
468.364 Assessments not affected — maintenance tax.
468.365 Election and apportionment of trustees.
468.366 Settling basin — condemnation.
468.367 Funding bonds.
468.368 Form of bonds.
468.369 Formal execution.
468.370 Resolution — requisites — record.
468.371 Registration.
468.372 Liability of treasurer — reports.
468.373 Sale — application of proceeds.
468.374 Levy.
468.375 Scope of Act.
468.376 Funds available to pay bonds.
468.377 Limitation of actions.
468.378 Bankruptcy proceedings.
468.379 Part applicable to districts with pumping stations.
468.380 Construction near levee prohibited.
468.381 Penalty.
468.382 Action to restrain or abate.
468.383 Liability for damage.
468.384 through 468.389 Reserved.

PART 6

DRAINAGE DISTRICTS IN CONNECTION WITH UNITED STATES LEVEES

468.390 United States levees — cooperation of board.
468.391 Manner of cooperation.
468.392 Report of engineer — payment authorized.
468.393 Costs assessed.
468.394 Annual installments.
468.395 Collection of tax.
468.396 Cost of maintaining.
468.397 Laws applicable.
468.398 and 468.399 Reserved.

PART 7

INTERSTATE DRAINAGE DISTRICTS

468.400 Cooperation — procedure.
468.401 Agreement as to costs.
468.402 Contracts let by joint agreement.
468.403 Separate contracts.
468.404 Conditions precedent.
468.405 Assessments, bonds and costs — limitation.
468.406 through 468.499 Reserved.

SUBCHAPTER III

MANAGEMENT OF DRAINAGE OR LEVEE DISTRICTS BY TRUSTEES

468.500 Trustees authorized.
468.501 Petition.
468.502 Election.
468.503 Intercounty district.
468.504 Election districts.

468.505 Record and plat of election districts.
468.506 Eligibility of trustees.
468.507 Notice of election.
468.508 Assessment to determine right to vote.
468.509 New owner entitled to vote.
468.510 Qualifications of voters.
468.511 Votes determined by assessment.
468.512 Vote by agent.
468.513 Vote of minor or person under legal incompetency.
468.514 Ballots — petition for printed ballots.
468.515 Candidates voted for.
468.516 Election — canvass of votes — returns.
468.517 Canvass — certificates of election.
468.518 Tenure of office.
468.519 Levee and pumping station districts.
468.520 Division of districts under trustees.
468.521 Elections — how conducted.
468.522 Change of date and time.
468.523 Vacancies.
468.524 Bonds.
468.525 Organization.
468.526 Powers and duties of trustees.
468.527 Costs and expenses.
468.528 Disbursement of funds.
468.529 Certificates and bonds.
468.530 Report to auditor.
468.531 Compensation — statements required.
468.532 Change to supervisor management.
468.533 Petition — canvass.
468.534 Remonstrance.
468.535 When change effective.
468.536 Final report of trustees.
468.537 Management by supervisors.
468.538 and 468.539 Reserved.

SUBCHAPTER IV

FINANCING

PART 1

DRAINAGE REFUNDING BONDS

468.540 Refunding bonds.
468.541 Petition for refunding.
468.542 Sufficiency of petition — hearing.
468.543 Notice.
468.544 Requirements of notice.
468.545 Extending payment of assessments.
468.546 Appeal.
468.547 Time and manner of appeal.
468.548 Maximum extension.
468.549 Form of bonds.
468.550 Numbering, signing and attestation.
468.551 Resolution required.
468.552 Record of resolution.
468.553 Record of bonds.
468.554 Liability of treasurer — reports.
468.555 Sale, exchange and cancellation.
468.556 Redemption from tax sale.
468.557 Effect of extension.
468.558 Additional assessments.
468.559 Applicability of funds.
468.560 Trust fund.
468.561 Liens unimpaired.
468.562 Limitation of action.
468.563 Void bonds or assessments.
468.564 Interpretative clause.
468.565 Composition with creditors — federal loans.
468.566 Refinancing powers.
468.567 Report and hearing — appeal.
468.568 and 468.569 Reserved.

PART 2

DEFAULTED DRAINAGE BONDS

468.570 Extension of payment — application.
468.571 Petition.
468.572 Hearing.
468.573 Parties — notice — service.
468.574 Jurisdiction of court.
468.575 Conservator appointed.
468.576 Report — hearing thereon.
468.577 Adjudication on report.
468.578 Refunding bonds.
468.579 Lien.
468.580 Trustees as parties.
468.581 Limitation of action.
468.582 through 468.584 Reserved.

PART 3

FUNDING OF COUNTY DRAINAGE DISTRICTS

468.585 Definitions.
468.586 Assessment of costs of drainage improvements.
468.587 Special assessment bonds.
468.588 Chapter 28E agreement.
468.589 Rates and charges for services and connection.
468.590 Cities subject to debt service tax levy — rates.
468.591 Authority.
468.592 through 468.599 Reserved.

SUBCHAPTER V

INDIVIDUAL DRAINAGE RIGHTS

468.600 Drainage through land of others — application.
468.601 Notice of hearing — service.
468.602 Service upon nonresident.
468.603 Service on omitted parties — adjournment.
468.604 Claims for damages — waiver.
468.605 Hearing — sufficiency of application — damages.

468.606 Shall locate when — specifications.
468.607 Findings — record.
468.608 Appeal — notice.
468.609 Transcript.
468.610 Appeal — how tried — costs.
468.611 Parties — judgment — orders.
468.612 Costs and damages — payment.
468.613 Construction.
468.614 Construction through railroad property.
468.615 Deposit.
468.616 Failure to construct.
468.617 Repairs.
468.618 Obstruction.
468.619 Drains on abutting boundary lines.
468.620 Boundary between two counties.
468.621 Drainage in course of natural drainage — reconstruction — damages.
468.622 Drainage connection with highway.
468.623 Private drainage system — record.
468.624 and 468.625 Repealed by 2009 Acts, ch 27, §39.
468.626 Original plat filed.
468.627 Record not part of title.
468.628 Fees for recording.
468.629 Lost records — hearing.
468.630 Mutual drains — establishment as district.
468.631 Appeal.
468.632 Record filed with established district.
468.633 Lost or incomplete records.
468.634 Petition to combine with established district.

SUBCHAPTER I

ESTABLISHMENT

Referred to in §331.382, 468.393, 468.397, 468.405

PART 1

GENERAL

Referred to in §331.502, 331.552, 350.4, 358.23, 461A.76, 468.3, 468.10, 468.41, 468.49, 468.59, 468.65, 468.67, 468.96, 468.115, 468.119, 468.126, 468.140, 468.152, 468.188, 468.207, 468.211, 468.240, 468.273, 468.283, 468.284, 468.288, 468.292, 468.297, 468.308, 468.335, 468.345, 468.529

468.1 Jurisdiction to establish.

The board of supervisors of any county shall have jurisdiction, power, and authority at any regular, special, or adjourned session, to establish a drainage district or districts, and to locate and establish levees, and cause to be constructed as hereinafter provided any levee, ditch, drain, or watercourse, or settling basins in connection therewith, or to straighten, widen, deepen, or change any natural watercourse, in such county, whenever the same will be of public utility or conducive to the public health, convenience or welfare.

[C73, §1207; C97, §1939; S13, §1989-a1; C24, 27, 31, 35, 39, §**7421;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.1]

89 Acts, ch 126, §2

CS89, §468.1

468.2 Presumption and construction of laws.

1. The drainage of surface waters from agricultural lands and all other lands, including state-owned lakes and wetlands, or the protection of such lands from overflow shall be presumed to be a public benefit and conducive to the public health, convenience, and welfare.

2. The provisions of this subchapter and all other laws for the drainage and protection from overflow of agricultural or overflow lands shall be liberally construed to promote leveeing, ditching, draining, and reclamation of wet, swampy, and overflow lands.

[S13, §1989-a1, -a46; C24, 27, 31, 35, 39, §**7422, 7594;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.2, 455.182]

89 Acts, ch 126, §2

CS89, §468.2

2011 Acts, ch 59, §1, 4

468.3 Definitions.

1. The term *"appraisers"* shall mean the persons appointed and qualified to ascertain the value of all land taken and the amount of damage arising from the construction of levee or drainage improvements.

2. Within the meaning of this subchapter, parts 1 through 5, and subchapter II, part 1, the term *"board"* shall embrace the board of supervisors, the joint boards of supervisors in case of intercounty levee or drainage districts, and the board of trustees in case of a district under trustee management.

3. As used in this chapter, unless the context otherwise requires, *"book"*, *"list"*, *"record"*, or *"schedule"* kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

4. The term *"commissioners"* shall mean the persons appointed and qualified to classify lands, fix percentages of benefits, apportion and assess costs and expenses in any levee or drainage district, unless otherwise specifically indicated by law.

5. The term *"cost of improvements"* means the costs of any improvement which is subject to special assessment including, but not limited to, the costs of engineering, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of land, easements, rights-of-way, construction, repair, supervision, inspection, testing, notices and publication, interest during construction and for a reasonable period following the completion of construction, and may include the default fund which shall amount to not more than ten percent of the total cost of an improvement assessed against benefited property.

6. The term *"engineer"* and the term *"civil engineer"*, within the meaning of this subchapter, parts 1 through 5, subchapter II, parts 1, 4, 5, and 6, and subchapter V, shall mean a person licensed as a professional engineer under the provisions of chapter 542B.

7. The term *"land surveyor"* shall mean a person licensed as a professional land surveyor under the provisions of chapter 542B.

8. For the purpose of this subchapter, parts 1 through 5, and with reference to improvements along or adjacent to the Missouri river the word *"levee"* shall be construed to include, in addition to its ordinary and accepted meaning, embankments, revetments, retards, or any other approved system of construction which may be deemed necessary to adequately protect the banks of any river or stream, within or adjacent to any county, from wash, cutting, or erosion.

[C24, 27, 31, 35, 39, §**7423, 7424;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.3, 455.4]
88 Acts, ch 1070, §1; 89 Acts, ch 126, §2
CS89, §468.3
2000 Acts, ch 1148, §1; 2007 Acts, ch 126, §84; 2012 Acts, ch 1009, §8
Referred to in §21.2, 22.1, 468.130
[P] Further definitions, see §161F.6
[T] NEW subsection 7 and former subsection 7 renumbered as 8

468.4 General rule for location.

The levees, ditches, or drains herein provided for shall, so far as practicable, be surveyed and located along the general course of the natural streams and watercourses or in the general course of natural drainage of the lands of said district; but where it will be more economical or practicable such ditch or drain need not follow the course of such natural streams, watercourses, or course of natural drainage, but may straighten, shorten, or change the course of any natural stream, watercourse, or general course of drainage.

[S13, §1989-a2; C24, 27, 31, 35, 39, §**7425;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.5]
89 Acts, ch 126, §2
CS89, §468.4

468.5 Location across railroad.

When any such ditch or drain crosses any railroad right-of-way, it shall when practicable be located at the place of the natural waterway across such right-of-way, unless said railroad company shall have provided another place in the construction of the roadbed for the flow of the water; and if located at the place provided by the railroad company, such company shall

be estopped from afterwards objecting to such location on the ground that it is not at the place of the natural waterway.

[S13, §1989-a2; C24, 27, 31, 35, 39, §**7426;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.6]

89 Acts, ch 126, §2

CS89, §468.5

468.6 Number of petitioners required.

Two or more owners of lands named in the petition described in section 468.8, may file in the office of the county auditor a petition for the establishment of a levee or drainage district, including a district which involves only the straightening of a creek or river. If the district described in the petition is a subdistrict, one or more owners of land affected by the proposed improvement may petition for such district.

[S13, §1989-a2, -a23; C24, 27, 31, 35, 39, §**7427, 7428;** C46, §455.7, 455.8; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.7]

89 Acts, ch 126, §2

CS89, §468.6

468.7 Request by nonpetitioners.

In the event two or more landowners included in the proposed district other than the petitioners request a classification prior to the establishment of said district, they shall file in writing their request and execute a bond as required in section 468.9 to cover the expense of such classification if the district is not established. Such written request and the bond shall be filed before the board establishes a district.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §455.8]

89 Acts, ch 126, §2

CS89, §468.7

468.8 Petition.

The petition shall set forth:

1. An intelligible description, by congressional subdivision or otherwise, of the lands suggested for inclusion in the district.

2. That said lands are subject to overflow or are too wet for cultivation or subject to erosion or flood danger.

3. That the public benefit, utility, health, convenience, or welfare will be promoted by the suggested improvements.

4. The suggested starting point, route, terminus and lateral branches of the proposed improvements.

5. In the event the petitioners request a classification before the establishment of the district, the petition shall include a request that the district be classified as provided in sections 468.38 through 468.44 after the board has approved the report of the engineer as a tentative plan but before the district is finally established.

[S13, §1989-a2, -a23; C24, 27, 31, 35, 39, §**7429;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.9]

89 Acts, ch 126, §2

CS89, §468.8

Referred to in §468.6

468.9 Bond.

1. There shall be filed with the petition a bond in an amount fixed and with sureties approved by the auditor, conditioned for the payment of all costs and expenses incurred in the proceedings in case the district is not finally established.

2. No preliminary expense shall be incurred before the establishment of such proposed improvement district by the board in excess of the amount of bond filed by the petitioners. In case it is necessary to incur any expense in addition to the amount of such bond, the board of supervisors shall require the filing of an additional bond by the petitioners and shall not

proceed with the preliminary survey or authorize any additional expense until the additional bond is filed in a sufficient amount to cover such expense.

[S13, §1989-a2; C24, 27, 31, 35, 39, §**7430, 7431;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.10, 455.11]

89 Acts, ch 126, §2

CS89, §468.9

Referred to in §357.1A, 468.7

468.10 Engineer.

1. The board shall at its first session thereafter, regular, special, or adjourned, examine the petition and if it be found sufficient in form and substance, shall appoint a disinterested and competent civil engineer who shall give bond to the county for the use of the proposed levee or drainage district, if it be established, and if not established, for the use of the petitioners, in amount and with sureties to be approved by the auditor, and conditioned for the faithful and competent performance of the engineer's duties.

2. Any engineer employed under the provisions of this subchapter, parts 1 through 5 shall receive such compensation per diem as shall be fixed and determined by the board of supervisors.

3. The board may at any time terminate the contract with, and discharge the engineer.

4. The engineer shall keep an accurate record of the kind of work done by the engineer, the place where done, and the time engaged therein, and shall file an itemized statement thereof with the auditor. No expenses shall be incurred by the engineer except upon authority of the board, and vouchers shall be filed with the claims therefor.

[S13, §1989-a2, -a41, -a42; SS15, §1527-s21b; C24, 27, 31, 35, 39, §**7432 – 7436;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.12 – 455.16]

89 Acts, ch 126, §2

CS89, §468.10

94 Acts, ch 1051, §1

468.11 Survey.

The engineer shall examine the lands described in the petition and any other lands which would be benefited by said improvement or necessary in carrying out the same.

The engineer shall locate and survey such ditches, drains, levees, settling basins, pumping stations, and other improvements as will be necessary, practicable, and feasible in carrying out the purposes of the petition and which will be of public benefit or utility, or conducive to public health, convenience, or welfare.

[S13, §1989-a2; C24, 27, 31, 35, 39, §**7437;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.17]

89 Acts, ch 126, §2

CS89, §468.11

Referred to in §468.13, 468.22, 468.27, 468.339

468.12 Report.

1. The engineer shall make full written report to the county auditor, setting forth:

a. The starting point, route, and terminus of each ditch, drain, and levee and the character and location of all other improvements.

b. A plat and profile, showing all ditches, drains, levees, settling basins, and other improvements, the course, length, and depth of each ditch, the length, size, and depth of each drain, and the length, width, and height of each levee, through each tract of land, and the particular descriptions and acreage of the land required from each forty-acre tract or fraction thereof as right-of-way, or for settling basin or basins, together with the congressional or other description of each tract and the names of the owners thereof as shown by the transfer books in the office of the auditor. Said plat shall describe the width of the right-of-way to be taken from each forty-acre tract or fraction thereof.

c. The boundary of the proposed district, including therein by color or other designation other lands that will be benefited or otherwise affected by the proposed improvements,

together with the location, size, and elevation of all lakes, ponds, and deep depressions therein.

d. Plans for the most practicable and economic place and method for passing machinery, equipment, and material required in the construction of said improvements across any highways, railroads, and other utilities within the proposed district.

e. The probable cost of the proposed improvements, together with such other facts and recommendations as the engineer shall deem material.

2. Where the proposed district contemplates as its object flood control or soil conservance the engineer shall include in the report data describing any soil conservance or flood control improvements, the nature of the improvements, and other data as prescribed by the department of natural resources.

[S13, §1989-a2; C24, 27, 31, 35, 39, §**7438;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.18; 82 Acts, ch 1199, §70, 96]

89 Acts, ch 126, §2

CS89, §468.12

2011 Acts, ch 25, §143

Referred to in §468.13, 468.22, 468.27, 468.339

468.13 Procedure on report — classification.

Upon the filing of the report of the engineer recommending the establishment of the levee or drainage district, the board shall at its first regular, adjourned, or special meeting examine and consider the same, and, if the plan is not approved the board may employ said engineer or another disinterested engineer to report another plan or make additional examination and surveys and file an additional report covering such matters as the board may direct. Additional surveys and reports must be made in accordance with the provisions of sections 468.11 and 468.12. At any time prior to the final adoption of the plans they may be amended, and as finally adopted by the board shall be conclusive unless the action of the board in finally adopting them shall be appealed from as hereinafter provided.

If the petition or other landowners requested a classification of the district prior to establishment, the board shall order a classification as provided by sections 468.38 through 468.44 after they have approved the report of the engineer as a tentative plan. The notice of hearing provided by section 468.14 shall also include the requirements of the notice of hearing provided in section 468.45 as to this classification, and the hearing on the petition provided in section 468.21 shall also include the matters to be heard as provided in section 468.46. If the board establishes the district as provided in section 468.22, the classification which is finally approved at said hearing by the board shall remain the basis of all future assessments for the purposes of said district as provided in section 468.49. The landowners shall have the same right of appeal from this classification as they would have if the petition had not requested a classification prior to establishment and the classification had been made after establishment.

[S13, §1989-a3; C24, 27, 31, 35, 39, §**7439;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.19]

89 Acts, ch 126, §2

CS89, §468.13

468.14 Notice of hearing.

When any plan and report of the engineer has been approved by the board, such approval shall be entered of record in its proceedings as a tentative plan only for the establishment of said improvement. Thereupon it shall enter an order fixing a date for the hearing upon the petition not less than forty days from the date of the order of approval, and directing the auditor immediately to cause notice to be given to the owner of each tract of land or lot within the proposed levee or drainage district as shown by the transfer books of the auditor's office, including railway companies having right-of-way in the proposed district and to all lienholders or encumbrancers of any land within the proposed district without naming them, and also to all other persons whom it may concern, and without naming individuals all actual occupants of the land in the proposed district, of the pendency and prayer of the said petition,

the favorable report thereon by the engineer, and that such report may be amended before final action, the approval thereof by the board as a tentative plan, and the day and the hour set for hearing on said petition and report, and that all claims for damages except claims for land required for right-of-way, and all objections to the establishment of said district for any reason must be made in writing and filed in the office of the auditor at or before the time set for such hearing.

[S13, §1989-a3; C24, 27, 31, 35, 39, §**7440;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.20]

89 Acts, ch 126, §2

CS89, §468.14

Referred to in §468.13, 468.15, 468.65, 468.126, 468.132, 468.134

468.15 Service by publication — copy mailed — proof.

The notice provided in section 468.14 shall be served by publication as provided in section 331.305 before the hearing except that the notice shall be published at least twenty days before the hearing date. Proof of the service shall be made by affidavit of the publisher. Copy of the notice shall also be sent by ordinary mail to each person and to the clerk or recorder of each city named in the notice at that person's 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 no mailing address is known and that diligent inquiry has been made to ascertain it. The copy of notice shall be mailed not less than twenty days before the day set for hearing and proof of the service shall be by affidavit of the auditor. Proofs of service required by this section shall be on file at the time the hearing begins.

[S13, §1989-a3; C24, 27, 31, 35, 39, §**7441;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.21]

87 Acts, ch 43, §14; 88 Acts, ch 1035, §1; 89 Acts, ch 126, §2

CS89, §468.15

Referred to in §468.48, 468.65, 468.74, 468.126, 468.132, 468.134, 468.207, 468.284, 468.602

468.16 Service on agent.

If any person, corporation, or company owning or having interest in any land or other property affected by any proposed improvement under this chapter shall file with the auditor an instrument in writing designating the name and post office address of the agent of the person, corporation, or company upon whom service of notice of said proceeding shall be made, the auditor shall, not less than twenty days prior to the date set for hearing upon said petition, send a copy of said notice by certified mail addressed to the agent so designated. Proof of such service shall be made by affidavit of the auditor filed in said proceeding at or before the date of the hearing upon the petition, and such service shall be in lieu of all other service of notice to such persons, corporations, or companies.

This designation when filed shall be in force for a period of five years thereafter and shall apply to all proceedings under said chapters during such period. The person, company, or corporation making such designation shall have the right to change the agent appointed therein or to amend it in any other particular.

[S13, §1989-a3; C24, 27, 31, 35, 39, §**7442;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.22]

89 Acts, ch 126, §2

CS89, §468.16

Referred to in §468.48, 468.65, 468.126, 468.132, 468.134, 468.207, 468.257

468.17 Personal service.

In lieu of publication, personal service of said notice may be made upon any owner of land in the proposed district, or upon any lienholder or other person interested in the proposed

improvement, in the manner and for the time required for service of original notices in the district court. Proof of such service shall be on file with the auditor on the date of said hearing.

[S13, §1989-a3; C24, 27, 31, 35, 39, §**7443;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.23]

89 Acts, ch 126, §2

CS89, §468.17

Referred to in §468.65, 468.126, 468.132, 468.134, 468.207

[P] Time and manner of service, R.C.P. 1.302 – 1.315

468.18 Waiver of notice.

No service of notice shall be required upon any person who shall file with the auditor a statement in writing, signed by the person, waiving notice, or who enters an appearance in the proceedings. The filing of a claim for damages or objections to the establishment of said district or other pleading shall be deemed an appearance.

[S13, §1989-a3; C24, 27, 31, 35, 39, §**7444;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.24]

89 Acts, ch 126, §2

CS89, §468.18

Referred to in §468.65, 468.126, 468.132, 468.134, 468.207

468.19 Waiver of objections and damages.

Any person, company, or corporation failing to file any claim for damages or objections to the establishment of the district at or before the time fixed for said hearing, except claims for land required for right-of-way, or for settling basins, shall be held to have waived all objections and claims for damages.

[S13, §1989-a4; C24, 27, 31, 35, 39, §**7445;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.25]

89 Acts, ch 126, §2

CS89, §468.19

Referred to in §468.207

468.20 Adjournment for service — jurisdiction retained.

If at the date set for hearing, it shall appear that any person entitled to notice has not been properly served with notice, the board may postpone said hearing and set another time for the same not less than thirty days from said date, and notice of such hearing as hereinbefore provided shall be served on such omitted parties. By fixing such new date for hearing and the adjournment of said proceeding to said date, the board shall not lose jurisdiction of the subject matter of said proceeding nor of any parties already served with notice.

[S13, §1989-a3; C24, 27, 31, 35, 39, §**7446;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.26]

89 Acts, ch 126, §2

CS89, §468.20

Referred to in §468.207

468.21 Hearing of petition — dismissal.

At the time set for hearing on said petition the board shall hear and determine the sufficiency of the petition in form and substance (which petition may be amended at any time before final action thereon), and all objections filed against the establishment of such district, and the board may view the premises included in the said district. If it shall find that the construction of the proposed improvement will not materially benefit said lands or would not be for the public benefit or utility nor conducive to the public health, convenience, or welfare, or that the cost thereof is excessive it shall dismiss the proceedings.

[S13, §1989-a5; C24, 27, 31, 35, 39, §**7447;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.27]

89 Acts, ch 126, §2

CS89, §468.21

Referred to in §468.13

468.22 Establishment — further investigation.

If the board shall find that such petition complies with the requirements of law in form and substance, and that such improvement would be conducive to the public health, convenience, welfare, benefit, or utility, and that the cost thereof is not excessive, and no claim shall have been filed for damages, it may locate and establish the said district in accordance with the recommendation of the engineer and the report and plans on file; or it may refuse to establish the proposed district if it deem best, or it may direct the engineer or another one employed for that purpose to make further examinations, surveys, plats, profiles, and reports for the modification of said plans, or for new plans in accordance with sections 468.11 and 468.12, and continue further hearing to a fixed date. All parties over whom the board then has jurisdiction shall take notice of such further hearing; but any new parties rendered necessary by any modification or change of plans shall be served with notice as for the original establishment of a district. The county auditor shall appoint three appraisers as provided for in section 468.24 to assess the value of the right-of-way required for open ditches or other improvements.

[S13, §1989-a5; C24, 27, 31, 35, 39, §**7448;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.28]

89 Acts, ch 126, §2

CS89, §468.22

Referred to in §468.13

468.23 Settling basins — purchase or lease of lands.

If a settling basin or basins are provided as a part of a drainage improvement, the board of supervisors may buy or lease the necessary lands in lieu of condemning said lands. The board may by purchase acquire the necessary lands required for right-of-way for open ditches or other improvements in lieu of condemning said lands.

[C27, 31, 35, §7448-a1; C39, §**7448.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.29]

89 Acts, ch 126, §2

CS89, §468.23

468.24 Appraisers.

If the board shall find that such improvement will materially benefit said lands, will be conducive to the public health, convenience, welfare, benefit, or utility, and that the law has been complied with as to form and substance of the petition, the service of notice, and the survey and report of the engineer, and that said improvement should be made, then if any claims for damages shall have been filed, further proceedings shall be continued to an adjourned, regular, or special session, the date of which shall be fixed at the time of adjournment, and of which all interested parties shall take notice, and the auditor shall appoint three appraisers to assess damages, one of whom shall be an engineer, and two freeholders of the county who shall not be interested in nor related to any person interested in the proposed improvement, and the said appraisers shall take and subscribe an oath to examine the said premises, ascertain and impartially assess all damages according to their best judgment, skill, and ability.

[S13, §1989-a5; C24, 27, 31, 35, 39, §**7449;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.30]

89 Acts, ch 126, §2

CS89, §468.24

Referred to in §468.22, 468.210

468.25 Assessment — report — adjournment — other appraisers.

The appraisers appointed to assess damages shall view the premises and determine and fix the amount of damages to which each claimant is entitled, and shall place a separate valuation upon the acreage of each owner taken for right-of-way for open ditches or for settling basins, as shown by plat of engineer, and shall, at least five days before the date fixed by the board to hear and determine the same, file with the county auditor reports in writing, showing the amount of damage sustained by each claimant. Should the report not be filed in time, or

should any good cause for delay exist, the board may postpone the time of final action on the subject, and, if necessary, the auditor may appoint other appraisers.

[S13, §1989-a6; C24, 27, 31, 35, 39, §**7450;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.31]

89 Acts, ch 126, §2

CS89, §468.25

468.26 Award by board.

At the time fixed for hearing and after the filing of the report of the appraisers, the board shall examine said report, and may hear evidence thereon, both for and against each claim for damages and compensation, and shall determine the amount of damages and compensation due each claimant, and may affirm, increase, or diminish the amount awarded by the appraisers.

[S13, §1989-a6; C24, 27, 31, 35, 39, §**7451;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.32]

89 Acts, ch 126, §2

CS89, §468.26

Referred to in §468.210

468.27 Dismissal or establishment — permanent easement.

The board shall at the meeting, or at an adjourned session of the meeting, consider the costs of construction of the improvement as shown by the reports of the engineer and the amount of damages and compensation awarded to all claimants, and if, in its opinion, the costs of construction and amount of damages awarded create a greater burden than should justly be borne by the lands benefited by the improvement, it shall then dismiss the petition and assess the costs and expenses to the petitioners and their sureties, but if it finds that the cost and expense is not a greater burden than should be justly borne by the land benefited by the improvement, it shall finally and permanently locate and establish the district and improvement.

Following its establishment, the drainage district is deemed to have acquired by permanent easement all right-of-way for drainage district ditches, tile lines, settling basins and other improvements, unless they are acquired by fee simple, in the dimensions shown on the survey and report made in compliance with sections 468.11 and 468.12 or as shown on the permanent survey, plat, and profile, if one is made. Upon the establishment of the district, the petitioners shall file with the county auditor the survey and report or permanent survey, plat, and profile, as set forth in sections 468.172 and 468.173. This filing constitutes constructive notice to all persons of the rights conferred by this section. The permanent easement includes the right of ingress and egress across adjoining land and the right of access for maintenance, repair, improvement, and inspection. The owner or lessee shall be reimbursed for any crop damages incurred in the maintenance, repair, improvement, and inspection except within the right-of-way of the drainage district.

[S13, §1989-a6; C24, 27, 31, 35, 39, §**7452;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.33]

85 Acts, ch 163, §1; 87 Acts, ch 42, §1; 89 Acts, ch 126, §2

CS89, §468.27

91 Acts, ch 80, §1; 91 Acts, ch 191, §121; 92 Acts, ch 1163, §96

468.28 Dismissal on remonstrance.

If, at or before the time set for final hearing as to the establishment of a proposed levee, drainage, or improvement district, except subdrainage district, there shall have been filed with the county auditor, or auditors, in case the district extends into more than one county, a remonstrance signed by a majority of the landowners in the district, and these remonstrants must in the aggregate own seventy percent or more of the lands to be assessed for benefits or taxed for said improvements, remonstrating against the establishment of said levee, drainage, or improvement district, setting forth the reasons therefor, the board or boards as the case may be, shall assess to the petitioners and their sureties or apportion the costs among them

as the board or boards may deem just or as said parties may agree upon. When all such costs have been paid, the board or boards of supervisors shall dismiss said proceedings and cause to be filed with the county auditor all surveys, plats, reports, and records in relation to the proposed district.

[C24, 27, 31, 35, 39, §**7453;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.34]
89 Acts, ch 126, §2
CS89, §468.28
Referred to in §468.119

468.29 Dissolution.

When for a period of two years from and after the date of the establishment of a drainage district, or when an appeal is taken or litigation brought against said district within two years from the date such appeal or litigation is finally determined, no contract shall have been let or work done or drainage certificates or bonds issued for the construction of the improvements in such district, a petition may be filed in the office of the auditor, addressed to the board of supervisors, signed by a majority of the persons owning land in such district and who, in the aggregate, own sixty percent or more of all the land embraced in said district, setting forth the above facts and reciting that provision has been made by the petitioners for the payment of all costs and expenses incurred on account of such district. The board shall examine such petition at its next meeting after the filing thereof, and if found to comply with the above requirements, shall dissolve and vacate said district by resolution entered upon its records, to become effective upon the payment of all the costs and expenses incurred in relation to said district. In case of such vacation and dissolution and upon payment of all costs as herein provided, the auditor shall note the same on the drainage record, showing the date when such dissolution became effective.

[C24, 27, 31, 35, 39, §**7454;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.35]
89 Acts, ch 126, §2
CS89, §468.29

468.30 Permanent survey, plat and profile.

When the improvement has been finally located and established, the board may if necessary appoint the said engineer or a new one to make a permanent survey of said improvement as so located, showing the levels and elevations of each forty-acre tract of land and file a report of the same with the county auditor together with a plat and profile thereof.

[S13, §1989-a6; C24, 27, 31, 35, 39, §**7455;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.36]
89 Acts, ch 126, §2
CS89, §468.30
Referred to in §468.62

468.31 Paying or securing damages.

The amount of damages or compensation finally determined in favor of any claimant shall be paid in the first instance by the parties benefited by the said improvement, or secured by bond in the amount of such damages and compensation with sureties approved by the auditor.

[S13, §1989-a7; C24, 27, 31, 35, 39, §**7456;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.37]
89 Acts, ch 126, §2
CS89, §468.31

468.32 Division of improvement.

After the damages as finally fixed, shall have been paid or secured, the board may divide said improvement into suitable sections, having regard to the kind of work to be done, numbering the same consecutively from outlets to the beginning, and prescribing the time

within which the improvement shall be completed. A settling basin, if provided for, may be embraced in a section by itself.

[S13, §1989-a7; C24, 27, 31, 35, 39, §**7457;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.38]

89 Acts, ch 126, §2

CS89, §468.32

468.33 Supervising engineer — bond.

Upon the payment or securing of damages, the board shall appoint a competent engineer to have charge of the work of construction thereof, who shall be required before entering upon the work to give a bond to the county for the use and benefit of the levee or drainage district, to be approved by the auditor in such sum as the board may fix, conditioned for the faithful discharge of the engineer's duties.

[S13, §1989-a7; C24, 27, 31, 35, 39, §**7458;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.39]

89 Acts, ch 126, §2

CS89, §468.33

468.34 Advertisement for bids.

The board shall publish notice once each week for two consecutive weeks in a newspaper published in the county where the improvement is located, and publish additional advertisement and publication elsewhere as the board may direct. The notice shall state the time and place of letting the work of construction of the improvement, specifying the approximate amount of work to be done in each numbered section of the district, the time fixed for the commencement, and the time of the completion of the work, that bids will be received on the entire work and in sections or divisions of it, and that a bidder will be required to deposit a bid security with the county auditor as provided in section 468.35. All notices shall fix the date to which bids will be received and upon which the work will be let. However, when the estimated cost of the improvement is less than twenty thousand dollars, the board may let the contract for the construction without taking bids and without publishing notice.

[C73, §1212; C97, §1944; S13, §1944; SS15, §1989-a8; C24, 27, 31, 35, 39, §**7459;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.40]

84 Acts, ch 1055, §10; 84 Acts, ch 1189, §1; 89 Acts, ch 126, §2

CS89, §468.34

94 Acts, ch 1051, §2; 2006 Acts, ch 1056, §1; 2010 Acts, ch 1091, §1, 4

[P] See §468.66

468.35 Bids — letting of work.

1. The board shall award contract or contracts for each section of the work to the lowest responsible bidder or bidders therefor, bids to be submitted, received and acted upon separately as to the main drain and each of the laterals, and each settling basin, if any, exercising their own discretion as to letting such work as to the main drain as a whole, or as to each lateral as a whole, or by sections as to both main drain and laterals, and reserving the right to reject any and all bids and readvertise the letting of the work.

2. A bid shall be in writing, specifying the portion of the work upon which the bid is made, and filed with the auditor. The bid shall be accompanied with a bid security. The bid security shall be in the form of a deposit of cash, a certified check on and certified by a bank in Iowa, a certified share draft drawn on a credit union in Iowa, or a bid bond with a corporate surety satisfactory to the board as provided in section 73A.20. The bid security must be payable to the auditor or the auditor's order at the auditor's office in a sum equal to five percent of the amount of the bid. However, if the maximum limit on a bid security would cause a denial of funds or services from the federal government which would otherwise be available, or if the maximum limit would otherwise be inconsistent with the requirements of federal law, the maximum limit may be suspended to the extent necessary to prevent denial of federal funds or services or to eliminate the inconsistency with federal requirements. The cash, check, or share draft of an unsuccessful bidder shall be returned, and the bid bond of an unsuccessful

bidder shall be canceled. The bid security of a successful bidder shall be maintained as a guarantee that the bidder will enter into contract in accordance with the bids.

[SS15, §1989-a8; C24, 27, 31, 35, 39, §**7460, 7461;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.41, 455.42]

84 Acts, ch 1055, §11; 89 Acts, ch 126, §2

CS89, §468.35

94 Acts, ch 1051, §3; 2010 Acts, ch 1091, §2, 4

Referred to in §468.34

[P] See §468.66

468.36 Performance bond — return of deposit.

A successful bidder is required to execute a bond with sureties approved by the auditor in favor of the county for the use and benefit of the levee or drainage district and all persons entitled to liens for labor or material in an amount not less than seventy-five percent of the contract price of the work to be done, conditioned for the timely, efficient, and complete performance of the contract, and the payment, as they become due, of all just claims for labor performed and material used in carrying out the contract. When a contract is executed and bond approved by the board, the certified check or certified share draft deposited with the bid shall be returned to the bidder.

[SS15, §1989-a8; C24, 27, 31, 35, 39, §**7462;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.43]

84 Acts, ch 1055, §12; 89 Acts, ch 126, §2

CS89, §468.36

468.37 Contracts.

All agreements and contracts for work or materials in constructing the improvements of such district shall be in writing, signed by the chairperson of the board of supervisors for and on behalf of the district and the parties who are to perform the work or furnish the materials specified in such contract. Such contract shall specify the particular work to be done or materials to be furnished, the time when it shall begin and when it shall be completed, the amount to be paid and the times of payment, with such other terms and conditions as to details necessary to a clear understanding of the terms thereof.

[C24, 27, 31, 35, 39, §**7463;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.44]

89 Acts, ch 126, §2

CS89, §468.37

468.38 Commissioners to classify and assess.

When a levee or drainage district has been located and finally established or, unless otherwise provided by law, when the required proceedings have been taken to enlarge, deepen, widen, change, or extend any of the ditches, laterals, settling basins, or drains of a district, or the required proceedings have been taken to annex additional lands to a district, or a plan of the United States government for original construction of the improvements in a district has been adopted by the district under sections 468.201 through 468.216, the board shall appoint three commissioners to assess benefits and classify the lands affected by the improvement. One of the commissioners shall be a competent civil engineer and two of them shall be resident freeholders of the county in which the district is located, but not living within, nor interested in, any lands included in the district, nor related to any party whose land is affected by the district. The commissioners shall take and subscribe an oath of their qualifications and to perform the duties of classification of the lands, to fix the percentages of benefits, apportion and assess the costs and expenses of constructing the improvement, divide and rename original improvements, and, if included in the board's resolution, adopt special common outlet classifications to be maintained independent of the district's regular assessment schedules, according to law and their best judgment, skill, and ability. If the commissioners or any of them fail or neglect to act or perform the duties in the time and as

required of them by law, the board shall appoint others with like qualifications to take their places and perform the duties.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7464;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.45]

89 Acts, ch 126, §2

CS89, §468.38

91 Acts, ch 80, §2

Referred to in §468.8, 468.13, 468.49, 468.65, 468.126, 468.184

[P] See §468.67

468.39 Duties — time for performance — scale of benefits.

At the time of appointing said commissioners, the board shall fix the time within which said assessment, classification, and apportionment shall be made, which may be extended for good cause shown. Within twenty days after their appointment, they shall begin to inspect and classify all the lands within said district, or any change, extension, enlargement, or relocation thereof in tracts of forty acres or less according to the legal or recognized subdivisions, in a graduated scale of benefits to be numbered according to the benefit to be received by each of such tracts from such improvement, and pursue said work continuously until completed and, when completed, shall make a full, accurate, and detailed report thereof and file the same with the auditor. The lands receiving the greatest benefit shall be marked on a scale of one hundred, and those benefited in a less degree with such percentage of one hundred as the benefits received bear in proportion thereto. They shall also make an equitable apportionment of the costs, expenses, fees, and damages computed on the basis of the percentages fixed.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7465;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.46]

89 Acts, ch 126, §2

CS89, §468.39

Referred to in §468.8, 468.13, 468.184

468.40 Rules of classification.

In the report of the appraisers so appointed they shall specify each tract of land by proper description, and the ownership thereof, as the same appears on the transfer books in the auditor's office.

In estimating the benefits as to the lands not traversed by said improvement, they shall not consider what benefits such land shall receive after some other improvements shall have been constructed, but only the benefits which will be received by reason of the construction of the improvement in question as it affords an outlet to the drainage of such lands, or brings an outlet nearer to said lands or relieves the same from overflow and relieves and protects the same from damage by erosion.

When the land is a state-owned lake or state-owned wetland, the commissioners shall ascertain the benefits realized from removing excess water and shall not consider any benefit realized if the state-owned lake or state-owned wetland were drained or converted to another land use.

[S13, §1989-a13; SS15, §1989-a12; C24, 27, 31, 35, 39, §**7467;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.47]

89 Acts, ch 126, §2

CS89, §468.40

2011 Acts, ch 59, §2, 4

Referred to in §468.8, 468.13, 468.43, 468.184

468.41 Assessment for lateral ditches — reclassification of benefited lands.

1. In fixing the percentages and assessments of benefits and apportionment of costs of construction to lands benefited by lateral ditches and drains as a part of the entire improvement to be made in a drainage district, the commissioners shall ascertain and fix the percentage of benefits and apportionment of costs to the lands benefited by such lateral ditches on the same basis and in the same manner as if said lateral was, with its sublaterals,

being constructed as a subdistrict as provided in this subchapter, parts 1 through 5, reporting separately:

a. The percentage of benefits and amount accruing to each forty-acre tract or less on account of the construction of the main ditch, drain, or watercourse including pumping plant, if any.

b. The percentage of benefits and amount accruing to each forty-acre tract or less on account of the construction of such lateral improvement.

2. When there has been a repair or improvement to a lateral ditch or drain as provided in section 468.126 and the lands benefited by the lateral have not been classified as provided in this section, the board may order a classification of the lands and the commission shall ascertain and fix the percentage of benefits and apportionment of costs to the lands benefited by such lateral ditches or drains on the same basis and in the same manner as if the lateral was with its sublaterals being constructed as a subdistrict as provided in this subchapter, parts 1 through 5. When this procedure is followed for the classification of any lateral ditch or drain in a given district, the board shall follow the same procedure for all other lateral ditches or drains in the district which have not been classified as prescribed in this section.

[S13, §1989-a23; SS15, §1989-a12; C24, 27, 31, 35, 39, §**7468;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.48]

83 Acts, ch 30, §1; 89 Acts, ch 126, §2

CS89, §468.41

Referred to in §468.8, 468.13, 468.131, 468.184

468.42 Railroad property — collection.

The commissioners to assess benefits and make apportionment of costs and expenses shall determine and assess the benefits to the property of any railroad company extending into or through the levee or drainage district, and make return thereof showing the benefit and the apportionment of costs and expenses of construction. Such assessment when finally fixed by the board shall constitute a debt due from the railroad company to the district, and unless paid it may be collected by ordinary proceedings for the district in the name of the county in any court having jurisdiction. All other proceedings in relation to railroads, except as otherwise provided, shall be the same as provided for individual property owners within the levee or drainage district.

[S13, §1989-a18; C24, 27, 31, 35, 39, §**7469;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.49]

89 Acts, ch 126, §2

CS89, §468.42

Referred to in §468.8, 468.13, 468.65, 468.184

468.43 Public highways and state-owned lands.

1. When any public highway or other public land extends into or through a levee or drainage district, the commissioners to assess benefits shall ascertain and return in their report the amount of benefits and the apportionment of costs and expenses to such highway or other public land, and the board of supervisors shall assess the same against such highway and land.

2. Such assessments against primary highways and other state-owned lands under the jurisdiction of the state department of transportation shall be paid by the state department from the primary road fund on due certification of the amount by the county treasurer to the department, and against all secondary roads and other county owned lands under the jurisdiction of the board of supervisors, from county funds.

3. When state-owned land under the jurisdiction of the department of natural resources is situated within a levee or drainage district, the commissioners assessing benefits shall ascertain and return in their report the amount of benefits and the apportionment of costs and expenses to the land, and the board of supervisors shall assess the amount against the land. In estimating benefits to land which is a state-owned lake or state-owned wetland, the commissioners shall ascertain benefits as provided in section 468.40.

4. The assessments against lands under the jurisdiction of the department of natural

resources shall be paid as an expense from the appropriations addressed in section 7D.29, if authorized by the executive council upon certification of the amount by the county treasurer.

[S13, §1989-a19, -a26; C24, 27, 31, 35, 39, §**7470;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.50]

83 Acts, ch 123, §183, 209; 85 Acts, ch 267, §3; 86 Acts, ch 1008, §1; 89 Acts, ch 126, §2

CS89, §468.43

97 Acts, ch 194, §1; 2011 Acts, ch 59, §3, 4; 2011 Acts, ch 131, §36, 158

Referred to in §331.429, 468.8, 468.13, 468.65, 468.184

468.44 Report of commissioners.

The commissioners, within the time fixed or as extended, shall make and file in the auditor's office a written verified report in tabulated form as to each forty-acre tract, and each tract of less than forty acres, setting forth:

1. The names of the owners thereof as shown by the transfer books of the auditor's office or the reports of the engineer on file, showing said entire classification of lands in said district.

2. The amount of benefits to highway and railroad property and the percentage of benefits to each of said other tracts and the apportionment and amount of assessment of cost and expense, or estimated costs or expense, against each:

a. For main ditches, and settling basins.

b. For laterals.

c. For levees and pumping station.

d. For erosion protection and control or flood control.

3. The aggregate amount of all assessments.

4. Any specific benefits other than those derived from the drainage of agricultural lands shall be separately stated.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7471;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.51]

89 Acts, ch 126, §2

CS89, §468.44

Referred to in §468.8, 468.13, 468.184

[P] See §468.67

468.45 Notice of hearing.

The board shall fix a time for a hearing upon the report of the commissioners, and the auditor shall cause notice to be served upon each person whose name appears as owner, naming the person, and also upon the person or persons in actual occupancy of any tract of land without naming the person or persons, of the day and hour of such hearing, which notice shall be for the same time and served in the same manner as is provided for the establishment of a levee or drainage district, and shall state the amount of assessment of costs and expenses of construction apportioned to each owner upon each forty-acre tract or less, and that all objections thereto must be in writing and filed with the auditor at or before the time set for such hearing.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7472;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.52]

89 Acts, ch 126, §2

CS89, §468.45

Referred to in §468.13

468.46 Hearing and determination.

At the time fixed or at an adjourned hearing, the board shall hear and determine all objections filed to said report and shall fully consider the said report, and may affirm, increase, or diminish the percentage of benefits or the apportionment of costs and expenses

made in said report against any body or tract of land in said district as may appear to the board to be just and equitable.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7473;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.53]

89 Acts, ch 126, §2

CS89, §468.46

Referred to in §468.13

468.47 Evidence — conclusive presumption.

At such hearing, the board may hear evidence both for and against the approval of said report or any portion thereof, but it shall not be competent to show that any of the lands in said district assessed for benefits or against which an apportionment of costs and expenses has been made will not be benefited by such improvement in some degree. Any interested party may be heard in argument in person or by counsel.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7474;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.54]

89 Acts, ch 126, §2

CS89, §468.47

[P] Similar provision, §468.92

468.48 Notice of increased assessment.

The board shall cause notice to be served upon the owner of any tract of land or easement against which it is proposed to increase the assessment, requiring the owner to appear at a fixed date and show cause why such assessment should not be so increased. Such notice shall be served for the time and in the manner prescribed in section 468.15 or section 468.16, as the case may be, except that personal service in the same manner as an original notice may be made in lieu of the other methods.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7475;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.55]

89 Acts, ch 126, §2

CS89, §468.48

[P] Service of notice, R.C.P. 1.302 – 1.315

468.49 Classification as basis for future assessments.

A classification of land for drainage, erosion or flood control purposes, when finally adopted, shall remain the basis of all future assessments for the purpose of said district unless revised by the board in the manner provided for reclassification, except that where land included in said classification has been destroyed, in whole or in part, by the erosion of a river, or where additional right-of-way has been subsequently taken for drainage purposes, said land which has been so eroded and carried away by the action of a river or which has been taken for additional right-of-way, may be removed by said board from said district as classified, without any reclassification, and no assessment shall thereafter be made on the land so removed. Any deficiency in assessment existing as the result of said action of the board shall be spread by it over the balance of lands remaining in said district in the same ratio as was fixed in the classification of the lands, payable at the next taxpaying period.

Except districts established by mutual agreement in accordance with section 468.142 in the event any forty-acre tract or less, or any lot, tract, or parcel, as set forth in the existing classification or reclassification of any drainage district now or hereafter established, is divided into two or more tracts, whether such division is by sale or condemnation or platted as a subdivision, the classification of the original tract shall be apportioned to the resulting parcels, regardless of use, except for land taken for additional drainage right-of-way. The classification of the original tract may be apportioned between the resulting parcels by agreement between the parties to such division. The parties shall file with the county auditor a written agreement setting forth the original description and the description of the tracts as subdivided and the percentage of the original classification apportioned to each. This agreement shall bear the signature of all of the parties to such subdivision. The agreement contemplated herein may be contained in the deed or other instrument effecting

the division of the land, which agreement shall be binding upon the grantee or grantees by their acceptance of such instrument and their signatures shall not be necessary. The auditor shall enter this agreement in the drainage record and amend the current classification of the district in accordance with such agreement.

In the event the parties to such subdivision cannot agree as to the apportionment of the percentage classification, the board of supervisors shall, upon application of either party, appoint a commission having the qualifications of commissioners, in accordance with section 468.38. The commissioners shall inspect the lands involved and apportion the existing classification of the original tract equitably and fairly to each of the several tracts as subdivided and shall make a full, accurate and detailed report thereof and file the same with the county auditor within the time set by the board. The report of the commissioners shall set forth the names of the owners thereof, the description of each of the tracts and the percentage of the original classification that each such tract shall bear for main ditches and settling basins, for laterals, for levees and pumping station. Thereafter all the proceedings in relation thereto as to notice of hearing and fixing of percentage benefits shall be as in this subchapter, parts 1 through 5, provided in relation to original classification and assessments, and at such hearing, the board may affirm, increase or diminish the percentage of benefits so as to make them just and equitable, and cause the record of the existing classification, percentage of benefits or assessments, or both, to be modified accordingly. In the event the parties neither agree as to the apportionment of classification nor make application for the appointment of commissioners, then the auditor of the county in which the land is situated shall make such apportionment upon an equitable basis and enter the same of record as herein provided. No tract of land included within the boundary of any drainage district shall be exempt from drainage assessments or reassessments, except as herein provided.

[SS15, §1989-a12; C24, 27, §7466, 7476; C31, 35, 39, §**7476;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.56]

89 Acts, ch 126, §2

CS89, §468.49

Referred to in §468.13, 468.188

468.50 Levy — interest.

When the board has finally determined the matter of assessments of benefits and apportionment, the board shall levy the assessments as fixed by it upon the lands within the district, but an assessment on a tract, parcel, or lot within the district which is computed at less than five dollars shall be fixed at the sum of five dollars. All assessments shall be levied at that time as a tax and shall bear interest at a rate determined by the board notwithstanding chapter 74A from that date, payable annually, except as provided as to cash payments within a specified time.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7477;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.57]

83 Acts, ch 101, §93; 89 Acts, ch 126, §2

CS89, §468.50

94 Acts, ch 1035, §1; 94 Acts, ch 1051, §4

Referred to in §460.207

468.51 Lien of tax.

Such taxes shall be a lien upon all premises against which they are assessed as fully as taxes levied for state and county purposes.

[S13, §1989-a45; C24, 27, 31, 35, 39, §**7478;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.58]

89 Acts, ch 126, §2

CS89, §468.51

468.52 Levy for deficiency.

If the first assessment made by the board for the original cost or for repairs of any improvement is insufficient, the board shall make an additional assessment and levy in the same ratio as the first for either purpose, but an assessment on any tract, parcel, or lot

within the district which is computed at less than five dollars shall be fixed at the sum of five dollars. All assessments shall be levied at that time as a tax and, notwithstanding chapter 74A, shall bear interest at a rate determined by the board from that date, payable annually, except as provided as to cash payments within a specified time.

[S13, §1989-a26; C24, 27, 31, 35, 39, §**7479;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.59]

89 Acts, ch 126, §2

CS89, §468.52

94 Acts, ch 1051, §5; 2001 Acts, ch 107, §1

468.53 Record of drainage taxes.

All drainage or levee tax assessments shall be entered in the drainage record of the district to which they apply, and also upon the tax records of each county.

[C24, 27, 31, 35, 39, §**7480;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.60]

89 Acts, ch 126, §2

CS89, §468.53

468.54 Funds — disbursement — interest.

The taxes when collected shall be kept in a separate fund known as the county drainage or levee fund and shall be paid out only for purposes properly connected with and growing out of the county drainage and levee districts on order of the board. The auditor shall continue to keep a record of each of the drainage and levee district's funds so as to accurately reflect the financial condition of each district account. The county treasurer, on order of the board of supervisors, shall invest such funds not immediately needed for current operating expenses in United States government bonds, in time certificates of deposit, in savings accounts in banks as the board shall approve, in the interest-bearing obligations of the drainage and levee districts of the county, or as provided by chapter 12C. Interest collected by the treasurer on the funds invested shall be deposited in the county drainage or levee fund, and on July 1 of each year the auditor shall apportion and credit the interest to each drainage or levee district account in the proportion which the average credit balance of each district bears to the average balance of the county drainage or levee fund. The averages to be ascertained shall be the averages of the balances existing on the first of each month during the fiscal year immediately preceding. Interest collected on drainage or levee district taxes shall be credited to the district for which the taxes are being collected. This section does not permit expenditures in behalf of any district in excess of its share of the county drainage or levee fund. This section does not apply to drainage and levee districts under trustee management unless the trustees consent to its application, and in the absence of such consent, section 468.528 applies.

[S13, §1989-a13; C24, 27, 31, 35, 39, §**7481;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.61]

89 Acts, ch 126, §2

CS89, §468.54

92 Acts, ch 1016, §35

468.55 Assessments — maturity and collection.

If a landowner selects an option provided in section 468.57, all drainage or levee tax assessments become due and payable with the first half of ordinary taxes, and shall be collected in the same manner with the same interest for delinquency and the same manner of enforcing collection by tax sales. As an alternative, the landowner may pay the annual installment in two equal payments, one-half with the September payment of ordinary taxes and one-half payable with the March payment of ordinary taxes. All drainage or levee tax assessments not optioned for installment payments by the landowner shall become due and payable within thirty days after the levy of assessments.

[S13, §1989-a26; C24, 27, 31, 35, 39, §**7482;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.62]

89 Acts, ch 126, §2

CS89, §468.55
92 Acts, ch 1016, §36; 92 Acts, ch 1177, §1; 2001 Acts, ch 107, §2; 2006 Acts, ch 1158, §64
[P] Collection of taxes, chapter 445

468.56 Payment of assessments.

All assessments for benefits, as corrected and approved by the board, shall be levied at one time against the property benefited, and when levied and certified by the board, are payable at the office of the county treasurer. A person may pay the person's assessment in full without interest within thirty days after the levy of assessments, and before any improvement certificates or drainage bonds are issued for the assessment, and may pay a certificate at any time after issue, with accrued interest.

[S13, §1989-a26; C24, 27, 31, 35, 39, §**7483;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.63]
84 Acts, ch 1028, §1; 84 Acts, ch 1189, §2; 88 Acts, ch 1039, §1; 89 Acts, ch 126, §2
CS89, §468.56

468.57 Installment payments — waiver.

1. If the owner of any land against which a levy exceeding five hundred dollars has been made and certified shall, within thirty days from the date of such levy, agree in writing endorsed upon any improvement certificate referred to in section 468.70, or in a separate agreement, that in consideration of having a right to pay the owner's assessment in installments, the owner will not make any objection as to the legality of the assessment for benefit, or the levy of the taxes against the property, then such owner shall have the following options:

a. To pay one-third of the amount of the assessment at the time of filing the agreement; one-third within twenty days after the engineer in charge certifies to the auditor that the improvement is one-half completed; and the remaining one-third within twenty days after the improvement has been completed and accepted by the board. All installments shall be without interest if paid at said times, otherwise the assessments shall bear interest from the date of the levy at a rate determined by the board notwithstanding chapter 74A, payable annually, and be collected as other taxes on real estate, with like interest for delinquency.

b. To pay the assessments in not less than ten nor more than twenty equal installments, with the number of payments and interest rate determined by the board, notwithstanding chapter 74A. The first installment of each assessment, or the total amount if five hundred dollars or less, is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of the levy as set by the board to the first day of December following the due date. The succeeding annual installments, with interest on the whole unpaid amount, to the first day of December following the due date, are respectively due on July 1 annually, and must be paid at the same time and in the same manner as the first semiannual payment of ordinary taxes. All future installments of an assessment may be paid on any date by payment of the then outstanding balance plus interest to the next December 1, or additional annual installments may be paid after the current installment has been paid before December 1 without interest. A payment must be for the full amount of the next installment. If installments remain to be paid, the next annual installment with interest added to December 1 will be due. After December 1, if a drainage assessment is not delinquent, a property owner may pay one-half or all of the next annual installment of principal and interest of a drainage assessment prior to the delinquency date of the installment. When the next installment has been paid in full, successive principal installments may be prepaid. The county treasurer shall accept the payments of the drainage assessment, and shall credit the next annual installment or future installments of the drainage assessment to the extent of the payment or payments, and shall remit the payments to the drainage fund. If a property owner elects to pay one or more principal installments in advance, the pay schedule shall be advanced by the number of principal installments prepaid. Each installment of an assessment with interest on the unpaid balance is delinquent from October 1 after its due date. However, when the last day

of September is a Saturday or Sunday, that amount shall be delinquent from the second business day of October. Taxes assessed pursuant to this chapter which become delinquent shall bear the same delinquent interest as ordinary taxes. When collected, the interest must be credited to the same drainage fund as the drainage special assessment.

2. The provisions of this section and of sections 468.58 through 468.61 may within the discretion of the board, also be made applicable to repairs and improvements made under the provisions of section 468.126.

[S13, §1989-a26, -a27; SS15, §1989-a12; C24, 27, 31, 35, 39, §**7484;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.64]

85 Acts, ch 163, §2; 86 Acts, ch 1099, §1; 89 Acts, ch 126, §2

CS89, §468.57

92 Acts, ch 1016, §37; 94 Acts, ch 1035, §2; 95 Acts, ch 57, §24; 97 Acts, ch 121, §26; 2011 Acts, ch 25, §143; 2011 Acts, ch 109, §4; 2012 Acts, ch 1138, §107

Referred to in §468.55, 468.59, 468.127

[T] Subsection 1 amended

468.58 Installment payments after appeal.

When an owner takes an appeal from the assessment against any of the owner's land, the option to pay in installments whatever assessment is finally established against such land in said appeal shall continue, if within twenty days after the final determination of said appeal the owner shall file in the office of the auditor the owner's written election to pay in installments, and within said period pay such installments as would have matured prior to that time if no appeal had been taken, together with all accrued interest on said assessment to the last preceding interest-paying date.

[C24, 27, 31, 35, 39, §**7486;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.65]

89 Acts, ch 126, §2

CS89, §468.58

Referred to in §468.57, 468.127

468.59 Notice of half and full completion.

Within two days after the engineer has filed a certificate that the work is half completed and within two days after the board of supervisors has accepted the completed improvement as in this subchapter, parts 1 through 5, provided, the county auditor shall notify the owner of each lot or parcel of land who has signed an agreement of waiver as provided in section 468.57, of such fact. Such notice shall be given by certified mail sent to such owners, respectively, at the addresses filed with the auditor at the time of making such agreement of waiver.

[C24, 27, 31, 35, 39, §**7487;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.66]

89 Acts, ch 126, §2

CS89, §468.59

Referred to in §468.57, 468.127

468.60 Lien of deferred installments.

No deferred installment of the amount assessed as between vendor and vendee, mortgagor and mortgagee shall become a lien upon the property against which it is assessed and levied until June 30 of the preceding fiscal year in which it is due and payable.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7488;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.67]

89 Acts, ch 126, §2

CS89, §468.60

Referred to in §468.57, 468.127

468.61 Surplus funds — application of.

When one-half or more of all assessments for a drainage or levee district have been paid and it is ascertained that there will be a surplus in the district fund after all assessments have been paid, the board may refund to the owner of each tract of land, not more than fifty percent of the owner's proportionate part of such surplus. When all construction work has been completed and all cost paid, and all assessments have been paid in full, the board may refund, to the owner of each tract of land, the owner's proportionate part of any surplus funds

except such portion of the surplus as the board considers should be retained for a sinking fund to pay future maintenance and repair costs.

[C24, 27, 31, §7489; C35, §7488-e1, 7489; C39, §**7488.1, 7489;** C46, §455.68, 455.69; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.68]

89 Acts, ch 126, §2

CS89, §468.61

Referred to in §468.57, 468.127

468.62 Change of conditions — modification of plan.

If, after the improvement has been finally located and before construction thereof has been completed, there has been a change of conditions of such nature that the plan of improvement as adopted should be modified or amended, the board may direct the engineer appointed under section 468.30 or another engineer, to make a report showing such changes or modifications of the plan of improvement as may be necessary to meet the change of conditions. Upon the filing of such report, the board shall have jurisdiction to adopt said modified or amended plan of improvement or may further modify or amend and adopt the same by following the procedure provided in sections 468.201 and 468.205 through 468.209 so far as same are applicable, except that awards for damages shall not be canceled where there has been no change made in the improvement which would increase or decrease the damages awarded. However, modifications and changes may be made in the plan on which hearing was held without further notice or hearing, provided the same do not increase or decrease the estimated cost to the district by more than twenty-five percent.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.69]

89 Acts, ch 126, §2

CS89, §468.62

Referred to in §468.66

468.63 Drainage subdistrict.

After the establishment of a drainage district, a person owning land within the district which has been assessed for benefits, but which is separated from the main ditch, drain, or watercourse for which it has been so assessed, by the land of others, who desires a ditch or drain constructed from the person's land across the land of the others in order to connect with the main ditch, drain, or watercourse, and is unable to agree with the intervening owners on the terms and conditions on which the person may enter upon their lands and cause to be constructed the connecting drain or ditch, may file a petition for the establishment of a subdistrict. After the petition is filed, the proceedings shall be the same as provided for the establishment of an original district.

[S13, §1989-a23; C24, 27, 31, 35, 39, §**7490;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.70]

86 Acts, ch 1050, §1; 88 Acts, ch 1069, §1; 89 Acts, ch 126, §2

CS89, §468.63

97 Acts, ch 163, §1

Referred to in §468.141

468.64 Presumption — jurisdiction.

Such connecting ditch or drain which a person shall cause to be constructed shall be presumed conducive to the public health, welfare, convenience, and utility the same as if it had been so constructed as a part of the original improvement of said district. When such subdistrict has been established and constructed it shall become and be a part of the improvement of such drainage district as a whole and be under the control and supervision of the board to the same extent and in every way as if it had been a part of the original improvement of such district.

[S13, §1989-a23; C24, 27, 31, 35, 39, §**7491;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.71]

89 Acts, ch 126, §2

CS89, §468.64

468.65 Reclassification.

1. When, after a drainage or levee district has been established, except districts established by mutual agreement in accordance with section 468.142, and the improvements thereof constructed and put in operation, there has been a material change as to lands occupied by highway or railroad right-of-way or in the character of the lands benefited by the improvement, or when a repair, improvement, or extension has become necessary, the board may consider whether the existing assessments are equitable as a basis for payment of the expense of maintaining the district and of making the repair, improvement or extension. If they find the same to be inequitable in any particular, they shall by resolution express such finding, appoint three commissioners possessing the qualifications prescribed in section 468.38 and order a reclassification as follows:

a. If they find the assessments to be generally inequitable they shall order a reclassification of all property subject to assessment, such as lands, highways, and railroads in said district.

b. If the inequity ascertained by the board is limited to the proportion paid by highways or railroads, a general reclassification of all lands shall not be necessary but the commissioners may evaluate and determine the fair proportion to be paid by such highways or railroads or both as provided in sections 468.42 and 468.43.

c. Any benefits of a character for which levee or drainage districts may be established and which are attributable to or enhanced by the improvement or by the repair, improvement, or extension thereof, shall be a proper subject of consideration in a reclassification notwithstanding the district may have been originally established for a limited purpose.

d. (1) If after a district has been reclassified, the board in its judgment concludes there were errors in the reclassification or there is an inequitable assessment of benefits, the board may on its own motion, after notice to the landowners involved as provided in sections 468.14 through 468.18 and by resolution, order the district or any portion of the district to again be reclassified as prescribed in this section and in section 468.67.

(2) The board may include in its resolution an order to the commissioners that they prepare special common outlet classifications, if needed, in conjunction with the reclassification of the district.

2. Such reclassification when finally adopted shall remain the basis for all future assessments unless revised as provided in this subchapter, parts 1 through 5.

[C24, 27, 31, 35, 39, §**7492;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.72]
89 Acts, ch 126, §2
CS89, §468.65
91 Acts, ch 80, §3; 2011 Acts, ch 25, §121
Referred to in §468.184

468.66 Bids required.

In case the board shall finally determine that any such changes as defined in section 468.62 shall be made involving an expenditure of twenty thousand dollars or more, the work shall be let by bids in the same manner as is provided for the original construction of such improvements.

[C24, 27, 31, 35, 39, §**7493;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.73]
89 Acts, ch 126, §2
CS89, §468.66
94 Acts, ch 1051, §6; 2006 Acts, ch 1056, §2; 2010 Acts, ch 1091, §3, 4
[P] See §468.34, 468.35

468.67 Procedure governing reclassification.

The proceedings for such reclassification shall in all particulars be governed by the same rules as for original classification. The commissioners shall fix the percentage of actual benefits and make an equitable apportionment of the costs and expenses of such repairs, improvements or extensions and file a report thereof with the auditor in the same form and manner as for original classification. Thereafter, all the proceedings in relation thereto as to notice, hearing, and fixing of percentage of benefits and amount of assessments shall be

as in this subchapter, parts 1 through 5, provided in relation to original classification and assessments, and at such hearing the board may affirm, increase, or diminish the percentage and assessment of benefits and apportionment of costs and expenses so as to make them just and equitable, and cause the record of the original classification, percentage of benefits, and assessments to be modified accordingly.

[C24, 27, 31, 35, 39, §**7494;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.74]

89 Acts, ch 126, §2

CS89, §468.67

Referred to in §468.65

[P] See §468.38, 468.44

468.68 Drainage warrants received for assessments.

Warrants drawn upon the construction or maintenance funds of any district for which an assessment has been or must be levied, shall be transferable by endorsement, and may be acquired by any taxpayer of such district and applied at their accrued face value upon the assessment levied to create the fund against which the warrant was drawn; when the amount of the warrant exceeds the amount of the assessment, the treasurer shall cancel the said warrant, and give the holder thereof a certificate for the amount of such excess, which certificate shall be filed with the auditor, who shall issue a warrant for the amount of such excess, and charge the treasurer therewith. Such certificate is transferable by endorsement, and will entitle the holder to the new warrant, made payable to the holder's order, and bearing the original number, preceded by the words, "Issued as unpaid balance due on warrant number .....".

[S13, §1989-a13; C24, 27, 31, 35, 39, §**7495;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.75]

89 Acts, ch 126, §2

CS89, §468.68

468.69 Bonds received for assessments.

Bonds issued for the cost of construction, maintenance or repair of any drainage or levee district, or for the refunding of any obligation of such district, may be acquired by any taxpayer or group of taxpayers of such district, and applied at their face value in the order of their priority, if any priority exists between bonds of the same issue, upon the payment of the delinquent and/or future assessments levied against the property of such taxpayers to pay off the bonds so acquired; the interest coupons attached to such bonds, may likewise be applied at their face value to the payment of assessments for interest accounts, delinquent or future.

[C35, §7495-e1; C39, §**7495.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.76]

89 Acts, ch 126, §2

CS89, §468.69

[P] See §74.1 et seq.

468.70 Installment assessments — interest-bearing warrants — improvement certificates.

The board may provide by resolution for the payment of assessments in not more than twenty annual installments with interest at a rate determined by the board, notwithstanding chapter 74A. The board may issue warrants bearing interest at the same rate, which warrants shall be numbered and state a maturity date in which event they shall bear interest from the date of issuance without being presented for payment and marked unpaid for want of funds. The warrants may be sold by the board for cash in an amount not less than their face value, together with any accrued interest.

The board may provide by resolution for the issuance of improvement certificates payable to bearer or to the contractors, naming them, who have constructed the said improvement or completed any part thereof, in payment or part payment of such work.

[S13, §1989-a26; C24, 27, 31, 35, 39, §**7499;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.77]

89 Acts, ch 126, §2

CS89, §468.70
94 Acts, ch 1035, §3
Referred to in §468.57, 468.74

468.71 Form, negotiability and effect.

Each of such certificates shall state the amount of one or more drainage assessments or part thereof made against the property, designating it and the owner thereof liable for the payment of such assessments. Said certificates shall be negotiable and transfer to the bearer all right and interest in and to the tax in every such assessment or part thereof described in such certificates, and shall authorize such bearer to collect and receive every assessment embraced in said certificate by or through any of the methods provided by law for their collection as the same mature.

[S13, §1989-a26; C24, 27, 31, 35, 39, §**7500;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.78]
89 Acts, ch 126, §2
CS89, §468.71
Referred to in §468.74

468.72 Interest — place of payment.

Such certificates shall bear interest at a rate determined by the board, payable annually, and shall be paid by the taxpayer to the county treasurer, who shall receipt for the same and cause the amount to be credited on the certificates issued therefor.

[S13, §1989-a26; C24, 27, 31, 35, 39, §**7501;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.79]
89 Acts, ch 126, §2
CS89, §468.72
94 Acts, ch 1035, §4
Referred to in §468.74

468.73 Sale at par — right to pay.

Any person shall have the right to pay the amount of the person's assessment represented by any outstanding improvement certificate, with the interest thereon to the date of such payment, at any time. No improvement certificate shall be issued or negotiated for the use of the drainage district for less than par value with accrued interest up to the delivery or transfer thereof. Every such certificate, when paid, shall be delivered to the treasurer and by the treasurer surrendered to the party to whose assessment it relates.

[S13, §1989-a26, -a27; C24, 27, 31, 35, 39, §**7502;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.80]
89 Acts, ch 126, §2
CS89, §468.73
Referred to in §468.74

468.74 Drainage bonds.

When a drainage district has been established or the making of any subsequent repair or improvement determined upon, if the board of supervisors shall find that the cost of such improvement will create assessments against the land included therein greater than should be levied in a single year upon the lands benefited by such improvement, then, instead of issuing improvement certificates, as provided in sections 468.70 through 468.73 the board may fix the amount that shall be levied and collected each year until such cost and expenses are paid, and may issue drainage bonds of the county covering all assessments exclusive of assessments of one hundred dollars and less.

Before such bonds shall be issued, the governing body of the district shall cause an action for declaratory judgment to be brought in the district court of the county in which the bonds are to be issued, asking that their legality be confirmed. The court shall fix a date for hearing thereon and notice thereof shall be given to the owners of each lot or tract of land within the district, which shall be affected by an assessment to pay the proposed bonds, as shown by the transfer books in the auditor's office; also to the holders of liens of record upon said lands;

and to all persons to whom it may concern without naming them specifically. Such notice shall be given by publication and by mailing for the same time in advance of hearing and in the same manner prescribed in section 468.15. After the entry of the declaratory judgment adjudicating the validity of such bonds, the approval of the district court shall be endorsed on the bonds before their issuance.

[C97, §1953; S13, §1989-a27; C24, 27, 31, 35, 39, §**7503;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.81]

89 Acts, ch 126, §2

CS89, §468.74

468.75 Form.

Each of such bonds shall be numbered and have printed upon its face that it is a "Drainage Bond", stating the county and number of the district for which it is issued, the date and maturity thereof, that it is in pursuance of a resolution of the board of supervisors, that it is to be paid only from taxes for levee and drainage improvement purposes levied and collected on the lands assessed for benefits within the district for which the bond is issued.

[S13, §1989-a27; C24, 27, 31, 35, 39, §**7504;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.82]

89 Acts, ch 126, §2

CS89, §468.75

468.76 Amount — interest — maturity.

In no case shall the aggregate amount of all bonds issued exceed the benefits assessed. The bonds shall not be issued for a greater amount than the aggregate amount of assessments for the payment of which they are issued, nor for a longer period of maturity than twenty years. The bonds shall bear interest at a rate determined by the board, notwithstanding chapter 74A, payable semiannually, on June 1 and December 1 of each year. The interest on unpaid assessments shall be at a rate determined by the board.

[C97, §1953; S13, §1989-a27; C24, 27, 31, 35, 39, §**7505;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.83]

89 Acts, ch 126, §2

CS89, §468.76

94 Acts, ch 1035, §5

Referred to in §357.21

468.77 Maturity — interest — highway benefits.

The board shall fix the amount, maturity, and interest of all bonds to be issued. It shall determine the amount of assessments to highways for benefits within the district to be covered by each bond issue. The taxes levied for benefits to highways and other public lands within any drainage or levee district shall be paid at the same times and in the same proportion as assessments against the lands of private owners.

[S13, §1989-a27; C24, 27, 31, 35, 39, §**7506;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.84]

89 Acts, ch 126, §2

CS89, §468.77

468.78 Sale or application at par — premium.

Such bonds may be applied at par with accrued interest to the payment of work as it progresses upon the improvements of the district, or, the board may sell, through the county treasurer, said bonds at not less than par with accrued interest and devote the proceeds to such payment. Any premium derived from the sale of said bonds shall be credited to the drainage fund of the district.

[C97, §1953; S13, §1989-a27; C24, 27, 31, 35, 39, §**7508;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.86]

89 Acts, ch 126, §2

CS89, §468.78

Referred to in §357.21

468.79 Deficiency levy — additional bonds.

If any levy of assessments is not sufficient to meet the interest and principal of outstanding bonds, or if default shall occur by reason of nonpayment of assessments, additional assessments may be made on the same classification as the previous ones. Additional bond issues may be made when necessary to complete full payment for improvements, by the same proceedings as previous issues.

[C97, §1953; S13, §1989-a27; C24, 27, 31, 35, 39, §**7509;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.87]

89 Acts, ch 126, §2

CS89, §468.79

468.80 Funding or refunding indebtedness.

Drainage districts may settle, adjust, renew, or extend the time of payment of the legal indebtedness they may have, or any part thereof, in the sum of one thousand dollars or upwards, whether evidenced by bonds, warrants, certificates, or judgments, and may fund or refund the same and issue bonds therefor in the manner provided in section 468.367.

[C27, 31, 35, §7509-a1; C39, §**7509.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.88]

89 Acts, ch 126, §2

CS89, §468.80

[P] Additional provisions, §468.540 – 468.567

468.81 Record of bonds.

A record of the numbers, amounts, and maturities of all such bonds shall be kept by the auditor showing specifically the lands embraced in the district upon which the tax has not been previously paid in full.

[S13, §1989-a27; C24, 27, 31, 35, 39, §**7510;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.89]

89 Acts, ch 126, §2

CS89, §468.81

468.82 Payment.

1. All assessments of twenty dollars and less shall be paid in cash.

2. The board at the time of making the levy, shall fix a time within which all assessments in excess of one hundred dollars may be paid in cash, and before any bonds are issued, publish notice in an official newspaper in the county where the district is located, of such time. After the expiration of such time, no assessments may be paid except in the manner and at the times fixed by the board in the resolution authorizing the issue of the bonds.

[C24, 27, 31, 35, 39, §**7511, 7512;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.90, 455.91]

89 Acts, ch 126, §2

CS89, §468.82

468.83 Appeals.

1. Any person aggrieved may appeal from any final action of the board in relation to any matter involving the person's rights, to the district court of the county in which the proceeding was held.

2. In districts extending into two or more counties, appeals from final orders resulting from the joint action of the several boards or the board of trustees of such district may be taken to the district court of any county into which the district extends.

[S13, §1989-a6, -a11, -a14, -a35; C24, 27, 31, 35, 39, §**7513, 7514;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.92, 455.93]

89 Acts, ch 126, §2

CS89, §468.83

Referred to in §468.126, 468.135

468.84 Time and manner.

All appeals shall be taken within twenty days after the date of final action or order of the board from which such appeal is taken by filing with the auditor a notice of appeal, designating the court to which the appeal is taken and the order or action appealed from, and stating that the appeal will come on for hearing thirty days following perfection of the appeal with allowances of additional time for good cause shown. This notice shall be accompanied by an appeal bond with sureties to be approved by the auditor conditioned to pay all costs adjudged against the appellant and to abide the orders of the court.

[S13, §1989-a6, -a14, -a35; C24, 27, 31, 35, 39, §**7515;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.94]

89 Acts, ch 126, §2

CS89, §468.84

Referred to in §357.33, 468.85, 468.126, 468.135, 468.547

[P] Presumption of approval of bond, §636.10

468.85 Transcript.

When notice of any appeal with the bond as required by section 468.84 shall be filed with the auditor, the auditor shall forthwith make and certify a transcript of the notice of appeal and appeal bond, and file the same with the clerk.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7516;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.95]

89 Acts, ch 126, §2

CS89, §468.85

Referred to in §357.33, 468.126, 468.135

468.86 Petition — docket fee — waiver — dismissal.

Within twenty days after perfection of the appeal the appellant shall file a petition setting forth the order or final action of the board appealed from and the grounds of the appellant's objections and the appellant's complaint, with a copy of the appellant's claim for damages or objections filed with the auditor. The appellant shall pay to the clerk the filing fee as provided by law in other cases. A failure to pay the filing fee or to file such petition shall be deemed a waiver of the appeal and in such case the court shall dismiss the same.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7517;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.96]

89 Acts, ch 126, §2

CS89, §468.86

Referred to in §357.33, 468.126, 468.135, 602.8102(65)

468.87 Pleadings on appeal.

It shall not be necessary for the appellees to file an answer to the petition unless some affirmative defense is made thereto, but they may do so.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7518;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.97]

89 Acts, ch 126, §2

CS89, §468.87

Referred to in §357.33, 468.126, 468.135, 602.8102(65)

468.88 Proper parties — employment of counsel.

In all actions or appeals affecting the district, the board of supervisors shall be a proper party for the purpose of representing the district and all interested parties therein, other than the adversary parties, and the employment of counsel by the board shall be for the purpose of protecting the rights of the district and interested parties therein other than the adversary parties.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7519;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.98]

89 Acts, ch 126, §2

CS89, §468.88

Referred to in §357.33, 468.126, 468.135, 602.8102(65)

468.89 Plaintiffs and defendants.

In all appeals or actions adversary to the district, the appellant or complaining party shall be entitled the plaintiff, and the board of supervisors and drainage district it represents, the defendants.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7520;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.99]

89 Acts, ch 126, §2

CS89, §468.89

Referred to in §357.33, 468.126, 602.8102(65)

468.90 Right of board and district to sue.

In all appeals or actions for or in behalf of the district, the board and the drainage district it represents may sue as the plaintiffs.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7521;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.100]

89 Acts, ch 126, §2

CS89, §468.90

Referred to in §357.33, 468.126, 602.8102(65)

468.91 Trial on appeal — consolidation.

Appeals from orders or actions of the board fixing the amount of compensation for lands taken for right-of-way or the amount of damages to which any claimant is entitled shall be tried as ordinary proceedings. All other appeals shall be triable in equity. The court may, in its discretion, order the consolidation for trial of two or more of such equitable cases.

[S13, §1989-a6, -a14, -a35; C24, 27, 31, 35, 39, §**7522;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.101]

89 Acts, ch 126, §2

CS89, §468.91

Referred to in §357.33, 468.126, 602.8102(65)

468.92 Conclusive presumption on appeal.

On the trial of an appeal from the action of the board in fixing and assessing the amount of benefits to any land within the district as established, it shall not be competent to show that any lands assessed for benefits within said district as established are not benefited in some degree by the construction of the said improvement.

An exception to the conclusiveness of an assessment under this section shall be in those cases where it has been determined under section 468.188 that land has later been deprived of benefits received by a division of the district by some other improvement.

[SS15, §1989-a12; C24, 27, 31, 35, 39, §**7523;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.102]

89 Acts, ch 126, §2

CS89, §468.92

Referred to in §357.33, 468.126, 602.8102(65)

[P] Similar provision, §468.47

468.93 Order as to damages — duty of clerk.

If the appeal is from the action of the board as to the amount of damages or compensation awarded, the amount found by the court shall be entered of record, but no judgment shall be rendered therefor. The amount thus ascertained shall be certified by the clerk of said court to the board of supervisors who shall thereafter proceed as if such amount had been by it allowed to the claimant.

[S13, §1989-a6; C24, 27, 31, 35, 39, §**7524;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.103]

89 Acts, ch 126, §2

CS89, §468.93

Referred to in §357.33, 468.126, 602.8102(65)

468.94 Costs.

Unless the result on the appeal is more favorable to the appellant than the action of the board, all costs of the appeal shall be taxed to the appellant, but if more favorable, the cost shall be taxed to the appellees.

[S13, §1989-a6; C24, 27, 31, 35, 39, §**7525;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.104]

89 Acts, ch 126, §2

CS89, §468.94

Referred to in §357.33, 468.126, 602.8102(65)

468.95 Decree as to establishing district or including lands.

On appeal from the action of the board in establishing or refusing to establish said district, or in including land within the district, the court may enter such order or decree as may be equitable and just in the premises, and the clerk of said court shall certify the decree or order to the board of supervisors which shall proceed thereafter in said matter as if such order had been made by the board. The taxation of costs among the litigants shall be in the discretion of the court.

[S13, §1989-a6; C24, 27, 31, 35, 39, §**7526;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.105]

89 Acts, ch 126, §2

CS89, §468.95

Referred to in §357.33, 468.126, 602.8102(65)

468.96 Appeal as exclusive remedy — nonappellants.

Upon appeal the decision of the court shall in no manner affect the rights or liabilities of any person who did not appeal. The remedy by appeal provided for in this subchapter, parts 1 through 5, shall be exclusive of all other remedies.

[S13, §1989-a46; C24, 27, 31, 35, 39, §**7527;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.106]

89 Acts, ch 126, §2

CS89, §468.96

Referred to in §357.33, 468.126

468.97 Reversal by court — recision by board.

In any case where the decree has been entered setting aside the establishment of a drainage district for errors in the proceedings, and such decree becomes final, the board shall rescind its order establishing the drainage district, assessing benefits, and levying the tax based thereon, and shall also cancel any contract made for construction work or material, and shall refund any and all assessments paid.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7528;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.107]

89 Acts, ch 126, §2

CS89, §468.97

Referred to in §357.33, 468.126

468.98 Setting aside establishment — procedure.

After the court on appeal has entered a decree revising or modifying the action of the board, the board shall fix a new date for hearing, and proceed in all particulars in the manner provided for the original establishment of the district, avoiding the errors and irregularities for which the original establishment was set aside, and after a valid establishment thereof, proceed in all particulars as provided by law in relation to the original establishment of such districts.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7529;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.108]

89 Acts, ch 126, §2

CS89, §468.98

Referred to in §357.33, 468.126

468.99 Reassessment to cure illegality.

Whenever any special assessment upon any lands within any drainage district shall have been adjudged to be void for any jurisdictional defect or for any illegality or uncertainty as to the terms of any contract and the improvement shall have been wholly completed, the board or boards of supervisors shall have power to remedy such illegality or uncertainty as to the terms of any such contract with the consent of the person with whom such contract shall have been entered into and make certain the terms of such contract and shall then cause a reassessment of such land to be made on an equitable basis with the other land in the district by taking the steps required by law in the making of an original assessment and relevying the tax in accordance with such assessment, and such tax shall have the same force and effect as though the board or boards of supervisors had jurisdiction in the first instance and no illegality or uncertainty existed in the contract.

[C24, 27, 31, 35, 39, §**7530;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.109]

89 Acts, ch 126, §2

CS89, §468.99

Referred to in §357.33

468.100 Monthly estimate — payment.

The supervising engineer shall, on or before the tenth day of each calendar month, furnish the contractor and file with the auditor estimates for work done during the preceding calendar month under the contract on each section, and the auditor shall at once draw warrants in favor of such contractor on the drainage funds of the district or give the contractor an order directing the county treasurer to deliver to the contractor or contractors improvement certificates, or drainage bonds as the case may be, for ninety percent of the estimate on work done. Such monthly estimates shall remain on file in the office of the auditor as a part of the permanent records of the district to which they relate. Drainage warrants, bonds or improvement certificates when so issued shall be in such amounts as the auditor determines, not however, in amounts in excess of one thousand dollars.

All of the provisions of this section shall, when applicable, apply to repair work and improvement work in the same force and effect as to original construction.

[C97, §1944; S13, §1944, 1989-a9; C24, 27, 31, 35, 39, §**7531;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.110]

89 Acts, ch 126, §2

CS89, §468.100

468.101 Completion of work — report — notice.

When the work to be done under a contract is completed to the satisfaction of the engineer in charge of construction, the engineer shall report and certify that the contract is completed to the board. Upon receipt of the report, the board shall set a day to consider the report and shall give notice of the time and purpose of the meeting by ordinary mail to the owners of the land on which the work was done, and to the owners of each tract of land or lot within the district by publication in a newspaper of general circulation in the county. The publication is not required to name the owners of any tract of land or lot within the district. The date for considering the report by the board shall be not less than ten days after the date of mailing, or publication, whichever is later.

[S13, §1989-a9; C24, 27, 31, 35, 39, §**7532;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.111]

85 Acts, ch 163, §3; 86 Acts, ch 1099, §2; 89 Acts, ch 126, §2

CS89, §468.101

95 Acts, ch 47, §1

Referred to in §357.18

468.102 Objections.

Any party interested in the said district or the improvement thereof may file objections to said report and submit any evidence tending to show said report should not be accepted. Any interested party having a claim for damages arising out of the construction of the improvement or repair shall file said claim with the board at or before the time fixed for

hearing on the completion of the contract, which claim shall not include any claim for land taken for right-of-way or for severance of land.

[C24, 27, 31, 35, 39, §**7533;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.112]

89 Acts, ch 126, §2

CS89, §468.102

Referred to in §357.18, 468.103

468.103 Final settlement — claims for damages.

If it finds the work under any contract has been completed and accepted, the board shall compute the balance due, and if there are no liens on file against such balance, it shall enter of record an order directing the auditor to draw a warrant in favor of said contractor upon the levee or drainage fund of said district or give the contractor an order directing the county treasurer to deliver to the contractor improvement certificates or drainage bonds, as the case may be, for such balance found to be due, but such warrants, improvement certificates or bonds shall not be delivered to the contractor until the expiration of thirty days after the acceptance of the work.

If any claims for damages have been filed as provided in section 468.102, the board shall review said claims and determine said claims. If the determination by the board on any claim for damages results in a finding by the board that the damages resulting to the claimant were due to the negligence of the contractor, then the board shall provide for payment of said claim out of the remaining funds owing to the contractor. If the determination by the board results in a finding that the damages resulting to the claimant were not due to the negligence of the contractor but resulted from unavoidable necessity in the performance of the contract, then the board shall allow for payment of said claim in the amount fixed by the board out of the funds in said drainage district.

[C73, §1212; C97, §1944; S13, §1944, 1989-a9; C24, 27, 31, 35, 39, §**7534;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.113]

89 Acts, ch 126, §2

CS89, §468.103

[P] Filing of claims, §573.10

468.104 Abandonment of work.

In case any contractor abandons or fails to proceed diligently and properly with the work before completion, or in case the contractor fails to complete the same in the time and according to the terms of the contract, the board shall make written demand on the contractor and the contractor's surety to proceed with the work within ten days. Service of said demand may be personal, or by certified mail addressed to the contractor and the surety, respectively, at their places of residence or business, as shown by the records in the auditor's office.

[S13, §1944, 1989-a10; C24, 27, 31, 35, 39, §**7535;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.114]

89 Acts, ch 126, §2

CS89, §468.104

Referred to in §357.17

468.105 New contract — suit on bond.

Unless the contractor or the surety on the contractor's bond shall appear and in good faith proceed to comply with the demand, and resume work under the contract within the time fixed, the board shall proceed to let contracts for the unfinished work in the same manner as original contracts, and apply all funds not paid to the original contractor toward the completion of the work, and if not sufficient for such purpose, may cause suit to be brought upon the bond of the defaulting contractor for the benefit of the district, and the amount of recovery thereon shall be credited to the district.

[C73, §1212; C97, §1944; S13, §1944, 1989-a10; C24, 27, 31, 35, 39, §**7536;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.115]

89 Acts, ch 126, §2

CS89, §468.105

Referred to in §357.17

468.106 Construction on or along highway.

When a levee or drainage district shall have been established by the board and it shall become necessary or desirable that the levee, ditch, drain, or improvement shall be located and constructed within the limits of any public highway, it shall be so built as not materially to interfere with the public travel thereon.

[S13, §1989-a20; C24, 27, 31, 35, 39, §**7537;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.116]

89 Acts, ch 126, §2

CS89, §468.106

468.107 Establishment of highways.

The board shall have power to establish public highways along and upon any levee or embankment along any such ditch or drain, but when so established the same shall be worked and maintained as other highways and so as not to obstruct or impair the levee, ditch, or drain.

[S13, §1989-a20; C24, 27, 31, 35, 39, §**7538;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.117]

89 Acts, ch 126, §2

CS89, §468.107

468.108 Bridges.

When a levee, ditch, drain, or change of any natural watercourse crosses a public highway, necessitating moving or building or rebuilding any secondary road bridge upon, or ditch or drain crossing the road, the board of supervisors shall move, build, or rebuild it, paying the costs and expenses, including construction, maintenance, repair and improvement costs, from county funds.

If the bridge or crossing be upon or across a primary or interstate road, the work aforesaid shall be done by the state department of transportation and paid for out of the primary road fund.

[S13, §1989-a19; C24, 27, 31, 35, 39, §**7539;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.118]

83 Acts, ch 123, §184, 209; 89 Acts, ch 126, §2

CS89, §468.108

Referred to in §331.429

468.109 Construction across railroad.

Whenever the board of supervisors shall have established any levee, or drainage district, or change of any natural watercourse and the levee, ditch, drain, or watercourse as surveyed and located crosses the right-of-way of any railroad company, the county auditor shall immediately cause to be served upon such railroad company, in the manner provided for the service of original notices, a notice in writing stating the nature of the improvement to be constructed, the place where it will cross the right-of-way of such company, and the full requirements for its complete construction across such right-of-way as shown by the plans, specifications, plat, and profile of the engineer appointed by the board, and directing such company to construct such improvement according to said plans and specifications at the place designated, across its right-of-way, and to build and construct or rebuild and reconstruct the necessary culvert or bridge where any ditch, drain, or watercourse crosses its right-of-way, so as not to obstruct, impede, or interfere with the free flow of the water therein, within thirty days from the time of the service of such notice upon it.

[S13, §1989-a18; C24, 27, 31, 35, 39, §**7540;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.119]

89 Acts, ch 126, §2

CS89, §468.109

Referred to in §468.110, 468.112

[P] Manner of service, R.C.P. 1.302 – 1.315

468.110 Duty to construct.

Upon receiving the notice provided in section 468.109, such railroad company shall construct the improvement across its right-of-way according to the plans and specifications prepared by the engineer for said district, and build or rebuild the necessary culvert or bridge and complete the same within the time specified.

[S13, §1989-a18; C24, 27, 31, 35, 39, §**7541;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.120]

89 Acts, ch 126, §2

CS89, §468.110

468.111 Bridges at natural waterway — costs.

The cost of building, rebuilding, constructing, reconstructing, changing, or repairing, as the case may be, any culvert or bridge, when such improvement is located at the place of the natural waterway or place provided by the railroad company for the flow of the water, shall be borne by such railroad company without reimbursement therefor.

[S13, §1989-a18; C24, 27, 31, 35, 39, §**7542;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.121]

89 Acts, ch 126, §2

CS89, §468.111

468.112 Construction when company refuses.

If a railroad company does not comply with a notice provided in section 468.109, the board shall provide for the construction of the improvement under the supervision of the engineer in charge of the improvement. The railroad company shall be liable for the cost of the construction which shall be collected by the county on behalf of the district in any court having jurisdiction. The court may award a prevailing county reasonable attorney fees incurred by the county, to be paid by the railroad company and taxed as part of the costs of the action.

[S13, §1989-a18; C24, 27, 31, 35, 39, §**7543;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.122]

89 Acts, ch 126, §2

CS89, §468.112

99 Acts, ch 184, §1

468.113 Cost of construction across railway.

The cost of constructing the improvement across the right-of-way of such company, not including the cost of building or rebuilding and constructing or reconstructing any necessary culvert or bridge, when such improvement is located at the place of the natural waterway or place provided by the railroad company for the flow of the water, shall be considered as an element of such company's damages by the appraiser to appraise damages.

[S13, §1989-a18; C24, 27, 31, 35, 39, §**7544;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.123]

89 Acts, ch 126, §2

CS89, §468.113

468.114 Passing drainage equipment across railway.

It shall be the duty of any steam or electric railway company to furnish the contractor unrestricted passage across its right-of-way, telegraph, telephone, and signal lines for the contractor's machines and equipment, whenever recommended by the engineer and approved by the board of supervisors, and the cost thereof shall be considered as an element of such company's damages by the appraisers thereof; provided that if such company shall fail to do so within thirty days after written notice from the auditor, the engineer shall cause the same to be done under the engineer's direction and the company shall be liable for the cost thereof to be collected by the county in any court having jurisdiction. Provided, further,

that the railway company shall have the right to designate the day and hours thereof within said period of thirty days above mentioned when such crossing shall be made.

[C24, 27, 31, 35, 39, §**7545;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.124]
89 Acts, ch 126, §2
CS89, §468.114

468.115 Passage across other public utilities.

The owner or operator of a public utility, whether operated publicly or privately other than steam and electric railways shall afford the contractor of any drainage project under this subchapter, parts 1 through 5, unrestricted passage for the contractor's machines and equipment across the right-of-way lines or other equipment of such utility whenever recommended by the engineer and approved by the board of supervisors.

[C24, 27, 31, 35, 39, §**7546;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.125]
89 Acts, ch 126, §2
CS89, §468.115

468.116 Failure to comply.

If the owner or operator of the utility fails to afford such passage within fifteen days after written notice from the drainage engineer so to do, the contractor, under the supervision of the engineer, may proceed to do the necessary work to afford such passage and to place said utility in the same condition as before said passage; but the owner or operator shall have the right to designate the hours of the day when such crossing or passage shall be made.

[C24, 27, 31, 35, 39, §**7547;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.126]
89 Acts, ch 126, §2
CS89, §468.116

468.117 Expenses attending passage.

The work necessary to afford such passage shall be deemed to be covered by and included in the contract with the district under which the contractor is operating, and if the work is done by the owner or operator of such utility the reasonable expense thereof shall be paid out of the drainage funds of the district and charged to the account of the contractor.

[C24, 27, 31, 35, 39, §**7548;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.127]
89 Acts, ch 126, §2
CS89, §468.117

468.118 Abandoned right-of-way.

If a railroad or other utility has abandoned the use of its right-of-way for the purpose it was originally acquired or has sold its right-of-way to a person who will use it for a purpose other than for which it was originally acquired, the prior right or privilege of the drainage district to pass through the right-of-way of the railroad or utility shall become a permanent easement in favor of the drainage district for drainage purposes including the right of ingress and egress through adjacent property and the right of access for maintenance, repair, improvement and inspection. The permanent easement has the same dimensions as originally specified in the engineer's report and survey, or as acquired by use or as subsequently acquired.

If a railroad or other utility has abandoned the use of its right-of-way for the purpose it was originally acquired or has sold its right-of-way to a person who will use it for a purpose other than for which it was originally acquired in segments, each segment shall be assessed for benefits in the same proportion as the area of the segment bears to the area of the right-of-way through the forty-acre tract.

85 Acts, ch 163, §4
CS85, §455.127A
89 Acts, ch 126, §2
CS89, §468.118

468.119 Annexation of additional lands.

1. After the establishment of a levee or drainage district, if the board becomes convinced

that additional lands contiguous to the district, and without regard to county boundaries, are benefited by the improvement or that the same are then receiving benefit or will be benefited by a repair or improvement to said district as contemplated in section 468.126, it may adopt, with or without a petition from owners of the proposed annexed lands, a resolution of necessity for the annexation of such additional land and appoint an engineer with the qualifications provided in this subchapter, parts 1 through 5, to examine such additional lands, to make a survey and plat thereof showing their relation, elevation, and condition of drainage with reference to such established district, and to make and file with the auditor a report as in this subchapter, parts 1 through 5, provided for the original establishment of such district, said report to specify the character of the benefits received.

2. In the event the additional lands are a part of an existing drainage district, as an alternative procedure to that established by subsection 1, the lands may be annexed in either of the following methods:

a. (1) A petition, proposing that the lands be included in a contiguous drainage district and signed by at least twenty percent of the landowners of those lands to be annexed, shall be filed with the governing board of each affected district.

(2) The board of the district in which the lands are presently included may, at its next regular meeting or at a special meeting called for that purpose, adopt a resolution approving and consenting to the annexation.

b. Whenever the owners of all of the land proposed to be annexed file a petition with the governing boards of the affected districts, the consent of the board in which the lands are then located shall not be required to consent to the annexation, and the board of the annexing district may proceed as provided in this section.

3. If either method of annexation provided for in subsection 2 is completed, the board of the district to which the lands are to be annexed may adopt a resolution of necessity for the annexation of the additional lands, as provided in this section.

4. The right of remonstrance, as provided under section 468.28, does not apply to the owners of lands being involuntarily annexed to an established district.

[S13, §1989-a54; C24, 27, 31, 35, 39, §**7549;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.128]

85 Acts, ch 163, §5; 89 Acts, ch 126, §2

CS89, §468.119

2009 Acts, ch 41, §140

Referred to in §468.121

468.120 Proceedings on report.

If the report recommends the annexation of the lands or any portion of them, the board shall consider the report, plats, and profiles and if satisfied that any of the lands are materially benefited by the district and that annexation is feasible, expedient, and for the public good, it shall proceed in all respects as to notice, hearing, appointment of appraisers to fix damages and as to hearing on the annexation; and if the annexation is finally made, as to classification and assessment of benefits to the annexed lands only, to the same extent and in the same manner as provided in the establishment of an original district. However, the annexation and classification of the annexed lands for benefits may be determined at one hearing. Those parties having an interest in the lands proposed to be annexed have the right to receive notice, to make objections, to file claims for damages, to have hearing, to take appeals and to do all other things to the same extent and in the same manner as provided in the establishment of an original district.

[S13, §1989-a54; C24, 27, 31, 35, 39, §**7550;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.129]

85 Acts, ch 163, §6; 89 Acts, ch 126, §2

CS89, §468.120

468.121 Levy on annexed lands.

After annexation is made the board may levy upon the annexed lands an assessment sufficient to equal the assessments for benefit originally paid by the lands of equal

classification if the finding by the board as provided by section 468.119 was that the lands should have been included in the district when originally established, plus their proportionate share of the costs of any enlargement or extension of drains required to serve the annexed lands. If the finding of the board as provided in section 468.119 was based on the fact that additional lands are now benefited by virtue of the repair, improvement, or the change of the topographical conditions made to the district and were not benefited by the district as originally established, then the board shall levy upon the annexed lands an assessment sufficient to pay their proportionate share of the costs of the repair or improvement which was the basis for the lands being annexed. If the board finds that the lands are presently receiving benefits from the district but that some were reasonably omitted from the original establishment because of the change of the topographical conditions, the assessments levied upon the annexed lands shall be limited to a proportionate share of the costs of current and future maintenance, repairs and improvements.

[S13, §1989-a54; C24, 27, 31, 35, 39, §**7551;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.130]

85 Acts, ch 163, §7; 89 Acts, ch 126, §2

CS89, §468.121

468.122 Use of former and abandoned surveys.

In cases where proceedings have been taken for the establishment of a levee or drainage district and an engineer has been appointed who has made a survey, return, and plat thereof and for any reason the improvement has been abandoned and the proceedings dismissed, and afterward proceedings are instituted for the establishment of a levee or drainage district which will benefit any territory surveyed in said former proceedings, the engineer shall use so much of the return, levels, surveys, plat, and profile made in the former proceedings as may be applicable. The engineer shall specify in the engineer's reports the parts thereof so used, and in case the cost of said returns, levels, surveys, plat, and profile made in said former proceedings has been paid by the former petitioners or their sureties, then a reasonable amount shall be allowed said petitioners or sureties for the use of the same.

[S13, §1989-a16; C24, 27, 31, 35, 39, §**7552;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.131]

89 Acts, ch 126, §2

CS89, §468.122

468.123 Unsuccessful procedure — reestablishment.

When proceedings have been instituted for the establishment of a drainage district or for any change or repair thereof, or the change of a natural watercourse, and the establishment thereof has failed for any reason either before or after the improvement is completed, the board shall have power to reestablish such district or improvement and any new improvement in connection therewith as recommended by the report of the engineer. As to all lands benefited by such reestablishment, repair, or improvement, the board shall proceed in the same manner as in the establishment of an original district, using as a basis for assessment the entire cost of the proceedings, improvement, and maintenance from the beginning; but in awarding damages and in the assessment of benefits account shall be taken of the amount of damages and taxes, if any, theretofore paid by those benefited, and credit therefor given accordingly. All other proceedings shall be the same as for the original establishment of the district, making of improvements, and assessment of benefits.

[S13, §1989-a17, -a50; C24, 27, 31, 35, 39, §**7553;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.132]

89 Acts, ch 126, §2

CS89, §468.123

468.124 New district including old district.

If any levee or drainage district or improvement established either by legal proceedings or by private parties shall be insufficient to properly drain all of the lands tributary thereto, the board upon petition as for the establishment of an original levee or drainage district, shall

have power to establish a new district covering and including such old district or improvement together with any additional lands deemed necessary. All outstanding indebtedness of the old levee or drainage district shall be assessed only against the lands included therein.

[S13, §1989-a25; C24, 27, 31, 35, 39, §**7554;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.133]

89 Acts, ch 126, §2

CS89, §468.124

Referred to in §468.125

468.125 Credit for old improvement.

When such district as contemplated in section 468.124 and the new improvement therein shall include the whole or any part of the former improvement, the commissioners, for classification of lands for assessment of benefits and apportionment of costs and expenses of such new improvement, shall take into consideration the value of such old improvement in the construction of the new one and allow proper credit therefor to the parties owning the old improvement as their interests may appear. In all other respects the same proceedings shall obtain as are provided for the original establishment of levee and drainage districts.

[S13, §1989-a25; C24, 27, 31, 35, 39, §**7555;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.134]

89 Acts, ch 126, §2

CS89, §468.125

468.126 Repairs and improvements.

1. When any levee or drainage district has been established and the improvement constructed, the improvement shall be at all times under the supervision of the board of supervisors except as otherwise provided for control and management by a board of trustees and the board shall keep the improvement in repair as provided in this section.

a. The board at any time on its own motion, without notice, may order done whatever is necessary to restore or maintain a drainage or levee improvement in its original efficiency or capacity, and for that purpose may remove silt and debris, repair any damaged structures, remove weeds and other vegetable growth, and whatever else may be needed to restore or maintain such efficiency or capacity or to prolong its useful life.

b. The board may at any time obtain an engineer's report regarding the most feasible means of repairing a drainage or levee improvement and the probable cost of making the repair. If the engineer advises, or the board otherwise concludes that permanent restoration of a damaged structure is not feasible at the time, the board may order temporary construction it deems necessary to the continued functioning of the improvement. If in maintaining and repairing tile lines the board finds from an engineer's report it is more economical to construct a new line than to repair the existing line, the new line may be considered to be a repair.

c. If the estimated cost of a repair exceeds twenty thousand dollars, or seventy-five percent of the original total cost of the district and subsequent improvements, whichever is the greater amount, the board shall set a date for a hearing on the matter of making the proposed repairs, and shall give notice as provided in sections 468.14 through 468.18. If a hearing is required and the estimated cost of the repair exceeds twenty-five thousand dollars, an engineer's report or a report from the soil and water conservation district conservationist shall be presented at the hearing. The requirement of a report may be waived by the board if a prior report on the repair exists and that report is less than ten years old. The board shall not divide proposed repairs into separate programs in order to avoid the notice and hearing requirements of this paragraph. At the hearing the board shall hear objections to the feasibility of the proposed repairs, and following the hearing the board shall order that the repairs it deems desirable and feasible be made. Any interested party has the right of appeal from such orders in the manner provided in this subchapter, parts 1 through 5.

d. The right of remonstrance does not apply to repairs as defined in this section.

2. In the case of minor repairs, or in the eradication of brush and weeds along the open ditches, not in excess of twenty thousand dollars where the board finds that a saving to the district will result, the board may cause the repairs or eradication to be done by secondary

road fund equipment, or weed fund equipment, and labor of the county and then reimburse the secondary road fund or the weed fund from the fund of the drainage district thus benefited.

3. When the board deems it necessary it may repair or reconstruct the outlet of any private tile line which empties into a drainage ditch of any district and assess the costs in each case against the land served by the private tile line.

4. For the purpose of this subsection, an "*improvement*" in a drainage or levee district in which any ditch, tile drain or other facility has previously been constructed is a project intended to expand, enlarge or otherwise increase the capacity of any existing ditch, drain or other facility above that for which it was designed.

a. When the board determines that improvements are necessary or desirable, the board shall appoint an engineer to make surveys as seem appropriate to determine the nature and extent of the needed improvements, and to file a report showing what improvements are recommended and their estimated costs, which report may be amended before final action. If the estimated cost of the improvements does not exceed twenty thousand dollars, or twenty-five percent of the original cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done without notice. The board shall not divide proposed improvements into separate programs in order to avoid the limitation for making improvements without notice. If the board deems it desirable to make improvements where the estimated cost exceeds the twenty thousand dollar or twenty-five percent limit, the board shall set a date for a hearing on the matter of constructing the proposed improvements and also on the matter of whether there shall be a reclassification of benefits for the cost of the proposed improvements and shall give notice as provided in sections 468.14 through 468.18. At the hearing, the board shall hear objections to the feasibility of the proposed improvements and arguments for or against a reclassification presented by or for any taxpayer of the district. Following the hearing, the board shall order that the improvements it deems desirable and feasible be made and shall also determine whether there should be a reclassification of benefits for the cost of improvements. If it is determined that a reclassification of benefits should be made, the board shall proceed as provided in section 468.38. In lieu of publishing the notice of a hearing as provided by this subsection, the board may mail a copy of the notice to each address where a landowner in the district resides by first class mail if the cost of mailing is less than publication of the notice. The mailing shall be made during the time the notice would otherwise be required to be published.

b. If the estimated cost of the improvements as defined in this subsection exceeds twenty-five thousand dollars, or the original cost of the district plus the cost of subsequent improvements in the district, whichever is the greater amount, a majority of the landowners, owning in the aggregate more than seventy percent of the total land in the district, may file a written remonstrance against the proposed improvements, at or before the time fixed for hearing on the proposed improvements, with the county auditor, or auditors in case the district extends into more than one county. If a remonstrance is filed, the board shall discontinue and dismiss all further proceedings on the proposed improvements and charge the costs incurred to date for the proposed improvements to the district. Any interested party may appeal from such orders in the manner provided in this subchapter, parts 1 through 5. However, this section does not affect the procedures of section 468.132 covering the common outlet.

5. Where under the laws in force prior to 1904 drainage ditches and levees were established and constructed without fixing at the time of establishment a definite boundary line for the body of land to be assessed for the cost thereof, the body of land which was last assessed to pay for the repair thereof shall also be considered as the established district for the purpose of this section.

6. The governing body of the district may, by contract or conveyance, acquire, within or without the district, the necessary lands or easements for making repairs or improvements under this section, including easements for borrow and easements for meander, and in addition thereto, the same may be obtained in the manner provided in the original establishment of the district, or by exercise of the power of eminent domain as provided for in chapter 6B. If additional right-of-way is required for any repair or improvement under

this section, the same may be acquired in the same manner as provided for the acquisition of right-of-way in the original establishment of a district, except that where notice and hearing are not otherwise required under this section notice as provided in this subchapter, parts 1 through 5, to owners, lienholder of record, and occupants of the land from which right-of-way is to be acquired shall suffice.

7. In existing districts where the stream has by erosion appropriated lands beyond its original right-of-way and it is more economical and feasible to acquire an easement for such erosion and meander than to undertake containment of the stream in its existing right-of-way, the board may, in the discharge of the duties enjoined upon it by this section, effect such acquisition as to the whole or part of the course. Right-of-way so taken shall be classed an improvement for the purpose of procedure under this section.

8. If the drainage records on file in the auditor's office for a particular district do not define specifically the land taken for right-of-way for drainage purposes, the board may at any time upon its own motion employ a land surveyor to make a survey and report of the district and to actually define the right-of-way taken for drainage purposes. After the land surveyor has filed the survey and report with the board, the board shall fix a date for hearing on the report and shall serve notice of the hearing upon all landowners and lienholder of record and occupants of the lands traversed by the right-of-way in the manner and for the time required for service of original notices in the district court. At the hearing the board shall specifically define the land taken for the right-of-way. Once established, the right-of-way constitutes a permanent easement in favor of the drainage district for drainage purposes including the right of ingress and egress across adjoining land and the right of access for maintenance, repair, improvement and inspection. A person aggrieved by the action or failure to act of the board under this subsection may appeal only in compliance with sections 468.83 through 468.98.

[S13, §1989-a21; C24, 27, 31, 35, 39, §**7556, 7558 – 7561;** C46, §455.135, 455.137 – 455.140; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.135; 81 Acts, ch 150, §1]

85 Acts, ch 163, §8, 9; 87 Acts, ch 23, §15; 87 Acts, ch 143, §1; 89 Acts, ch 126, §2

CS89, §468.126

94 Acts, ch 1051, §7, 8; 2004 Acts, ch 1051, §1 – 3; 2008 Acts, ch 1047, §1 – 4

Referred to in §461A.76, 468.41, 468.57, 468.119, 468.127, 468.131, 468.132, 468.201, 468.260, 468.359, 468.396

468.127 Payment.

The costs of the repair or improvements provided for in section 468.126 shall be paid for out of the funds of the levee or drainage district. If the funds on hand are not sufficient to pay such expenses, the board within two years shall levy an assessment sufficient to pay the outstanding indebtedness and leave the balance which the board determines is desirable as a sinking fund to pay maintenance and repair expenses. Any assessment made under this section on any tract, parcel or lot within the district which is computed at less than five dollars shall be fixed at the sum of five dollars.

If the board deems that the costs of the repairs or improvements will create assessments against the lands in the district greater than should be borne in one year, it may levy the same at one time and provide for the payment of said costs and assessments in the manner provided in sections 468.57 through 468.61; provided that assessments may be collected in not more than twenty installments as the board may determine.

[S13, §1989-a21; C24, 27, 31, 35, 39, §**7557;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.136]

89 Acts, ch 126, §2

CS89, §468.127

94 Acts, ch 1051, §9; 98 Acts, ch 1048, §1

468.128 Impounding areas and erosion control devices.

Levee and drainage districts are empowered to construct impounding areas and other flood and erosion control devices to protect lands of the district and drainage structures and may provide ways for access to improvements for the operation or protection thereof, where the cost is not excessive in consideration of the value to the district. Necessary lands or easements may be acquired within or without the district by purchase, lease or agreement,

or by exercise of the right of eminent domain as provided for in chapter 6B and may be procured and construction undertaken either independently or in cooperation with other districts, individuals, or any federal or state agency or political subdivision.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.137]
89 Acts, ch 126, §2
CS89, §468.128
2006 Acts, 1st Ex, ch 1001, §44, 49

468.129 Revenues used for operation, maintenance and construction.

Levee and drainage districts may realize income from incidental uses of their improvements and rights-of-way which are not injurious to same or incompatible with the purposes of the district. Revenues derived therefrom may be expended for operating, maintenance or construction costs of the district as its governing body may elect.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.138]
89 Acts, ch 126, §2
CS89, §468.129

468.130 City may discharge treated sewage.

Any board, as defined in section 468.3, may by contract permit any city to discharge adequately treated sewage into drainage ditches. The contract shall fix the rental, make provision for termination, and shall provide that no nuisance shall be created.

[C58, 62, 66, 71, 73, §393.12; C75, 77, 79, 81, §455.139]
89 Acts, ch 126, §2
CS89, §468.130

468.131 Reclassification required.

When an assessment for improvements as provided in section 468.126, exceeds twenty-five percent of the original assessment and the original or subsequent assessment or report of the benefit commission as confirmed did not designate separately the amount each tract should pay for the main ditch and tile lateral drains then the board shall order a reclassification in accordance with the principles and rules set forth in section 468.41.

[C24, 27, 31, 35, 39, §**7562;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.141]
89 Acts, ch 126, §2
CS89, §468.131

468.132 Improvement of common outlet — notice of hearing.

When two or more drainage districts outlet into the same ditch, drain, or natural watercourse and the board determines that it is necessary to clean out, deepen, enlarge, extend, or straighten said ditch, drain, or natural watercourse in order to expeditiously carry off the combined waters of such districts, the board may proceed as provided in section 468.126. After said board has decided that such work should be done, it shall fix a date for hearing on its decision, and it shall give two weeks' notice thereof by certified mail to the auditor of the county wherein the land to be assessed for such work is located, and said county auditor shall thereupon immediately notify by certified mail the board or boards of trustees of the districts having supervision thereof, as to said hearing on said contemplated work. In those instances where two or more districts involved are under the supervision of the same board, or joint board if the district is intercounty, the notice shall be given to all landowners affected as prescribed for in sections 468.14 through 468.18. Each district shall be assessed for the cost of such work in proportion to the benefits derived. Common outlet for the purpose of this section shall mean an outlet where two adjacent districts have an outlet common to both of said districts and which districts are also contiguous, one to the other.

[S13, §1989-a24; C24, 27, 31, 35, 39, §**7563;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.142]
89 Acts, ch 126, §2
CS89, §468.132
Referred to in §468.126

468.133 Commissioners to apportion benefits — interest prohibited.

For the purpose of ascertaining the proportionate benefits, the board shall appoint commissioners having the qualifications of benefit commissioners, one of whom shall be an engineer. Such commissioners appointed shall not be residents of any of the districts affected, nor shall any member thereof have any interest in land in any districts affected by the contemplated work. Such commission shall determine the percentage of benefits and the sum total to be assessed to each district for the improvement.

In the event that one of the districts to be assessed under this statute shall have any improvement such as a settling basin which reduces the quality and quantity of flow or sediment, such commission may give consideration to the existence of such an improvement when they determine the percentage of benefits and the sum total to be assessed to each district for the improvement.

[C24, 27, 31, 35, 39, §**7564;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.143]
89 Acts, ch 126, §2
CS89, §468.133
Referred to in §468.135

468.134 Time of report — notice of hearing.

When said commissioners are appointed, the board shall, by proper order, fix the time when the commissioners shall report their findings, but a report filed within thirty days of the time so fixed shall be deemed a compliance with said order. On the filing of said report, the board shall fix a time for hearing thereon, and it shall give notice thereof to the auditor of the county in which the land to be assessed for such work is located by certified mail; said county auditor shall thereupon immediately notify by certified mail the board of supervisors, and board or boards of trustees of the districts having supervision thereof, as to said hearing on said commissioner's report. In those instances where two or more districts are under the supervision of the same board, or joint board if the district is intercounty, the notice shall be given to all landowners affected as prescribed in sections 468.14 through 468.18.

[C24, 27, 31, 35, 39, §**7565;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.144]
89 Acts, ch 126, §2
CS89, §468.134
Referred to in §468.135

468.135 Report and review — appeal.

The commissioners shall file with the board a detailed report of their findings. Said board shall review said report and may, by proper order, increase or decrease the amount which shall be charged to each district. After the final order of the board herein has been made, said board shall notify the county auditor, in the time and manner as provided in sections 468.133 and 468.134, of said order, and said county auditor shall notify by certified mail the board of supervisors, and said board or boards of trustees, of said final order. Said board of supervisors and said board or boards of trustees, if aggrieved by said final order, may appeal therefrom to the district court of the county in which any of the improvement proposed or done is located.

Any such appeal shall be taken, perfected and conducted in the time and manner provided in section 468.83, subsection 1, and sections 468.84 through 468.88, for appeals contemplated by said sections.

[C24, 27, 31, 35, 39, §**7566;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.145]
89 Acts, ch 126, §2
CS89, §468.135

468.136 Levy under original classification.

If the amount finally charged against a district does not exceed twenty-five percent of the original cost of the improvement in the district, the board shall proceed to levy the amount against all lands, highways, and railway rights-of-way and property within the district, in accordance with the original classification and apportionment. Any assessment made under

this section on any tract, parcel, or lot within the district which is computed at less than five dollars shall be fixed at the sum of five dollars.

[C24, 27, 31, 35, 39, §**7567;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.146]
89 Acts, ch 126, §2
CS89, §468.136
94 Acts, ch 1051, §10

468.137 Levy under reclassification.

If the amount finally charged against a district exceeds twenty-five percent of the original cost of the improvement, the board may order a reclassification as provided for the original classification of a district and upon the final adoption of the new classification and apportionment shall proceed to levy that amount upon all lands, highways, and railway rights-of-way and property within the district, in accordance with the new classification and apportionment. An assessment made under this section on a tract, parcel, or lot within the district which is computed at less than five dollars shall be fixed at the sum of five dollars.

[C24, 27, 31, 35, 39, §**7568;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.147]
85 Acts, ch 163, §10; 89 Acts, ch 126, §2
CS89, §468.137
94 Acts, ch 1051, §11

468.138 Removal of obstructions.

The board shall cause to be removed from the ditches, drains, and laterals of any district any obstructions which interfere with the flow of the water, including trees, hedges, or shrubbery and the roots thereof, and may cause any tile drain so obstructed to be relaid in concrete or any other adequate protection, such work to be paid for from the drainage funds of the district.

[C24, 27, 31, 35, 39, §**7569;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.148]
89 Acts, ch 126, §2
CS89, §468.138

468.139 Trees and hedges.

When it becomes necessary to destroy any trees or hedges outside the right-of-way of any ditch, lateral, or drain in order to prevent obstruction by the roots thereof, if the board and the owners of such trees or hedges cannot agree upon the damage for the destruction thereof, the board may proceed to acquire the right to destroy and remove such trees or hedges by the same proceedings provided for acquiring right-of-way for said drainage improvement in the first instance.

[C24, 27, 31, 35, 39, §**7570;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.149]
89 Acts, ch 126, §2
CS89, §468.139
[P] Condemnation procedure, chapter 6B
[P] Similar provision, §468.347

468.140 Outlet for lateral drains — specifications.

The owner of any premises assessed for the payment of the costs of location and construction of any ditch, drain, or watercourse as in this subchapter, parts 1 through 5, provided, shall have the right to use the same as an outlet for lateral drains from the premises. The board of supervisors shall make specifications covering the manner in which such lateral drains shall be connected with the main ditches or other laterals and be maintained, and the owner shall follow such specifications in making and maintaining any such connection.

[S13, §1989-a22; C24, 27, 31, 35, 39, §**7571;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.150]
89 Acts, ch 126, §2
CS89, §468.140

468.141 Subdistricts in intercounty districts.

The board of supervisors of any county shall have jurisdiction to establish subdrainage districts of lands included within a district extending into two or more counties when the

lands to compose such subdistricts lie wholly within such county, and to make improvements therein, repair and maintain the same, fix and levy assessments for the payment thereof, and the provisions of this section shall apply to all such drainage subdistricts, the lands of which lie wholly within one county. The proceedings for all such purposes shall be the same as for the establishment, construction, and maintenance of an original levee or drainage district the lands of which lie wholly within one county, so far as applicable, except that one or more persons may petition for a subdistrict as provided in section 468.63.

[S13, §1989-a37; C24, 27, 31, 35, 39, §**7572;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.151]

89 Acts, ch 126, §2

CS89, §468.141

468.142 District by mutual agreement — presumption.

The owners of lands may provide by mutual agreement in writing duly signed, acknowledged, and filed with the auditor for combined drainage of their lands by the location and establishment of a drainage district for such purposes and the construction of drains, ditches, settling basins, and watercourses upon and through their said lands. Such drainage district shall be presumed to be conducive to the public welfare, health, convenience, or utility.

[S13, §1989-a28; C24, 27, 31, 35, 39, §**7573;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.152]

89 Acts, ch 126, §2

CS89, §468.142

Referred to in §418.1, 468.49, 468.65

468.143 What the agreement shall contain.

Such agreements shall contain the following:

1. A description of the lands by congressional divisions, metes and bounds, or other intelligible manner, together with the names of the owners of all said lands.
2. The location of the drains and ditches to be constructed, describing their sources and outlets and the courses thereof.
3. The character and extent of drainage improvement to be constructed, including settling basins, if any.
4. The assessment of damages, if any.
5. The classification of the lands included in such district, the amount of drainage taxes or special assessments to be levied upon and against the several tracts, and when the same shall be levied and paid.
6. Such other provisions as the board deems necessary.

[S13, §1989-a28; C24, 27, 31, 35, 39, §**7574;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.153]

89 Acts, ch 126, §2

CS89, §468.143

468.144 Board to establish.

When such agreement is filed, the auditor shall record it in the drainage record. The board shall at a regular, special, or adjourned session thereafter locate and establish a drainage district and locate the ditches, drains, settling basins, and watercourses thereof as provided in said agreement, and enter of record an order accordingly. The board thereafter shall carry out the object, purpose, and intent of such agreement and cause to be completed and constructed the said improvement and shall retain jurisdiction of the same as fully as in districts established in any other manner. It shall cause to be levied upon and against the lands of such district, the drainage taxes and assessments according to said agreement and

when collected said taxes and assessments shall constitute the drainage funds of said district to be applied upon order of the board as in said agreement provided.

[S13, §1989-a28; C24, 27, 31, 35, 39, §**7575;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.154]

89 Acts, ch 126, §2

CS89, §468.144

468.145 Procedure.

The board shall proceed to carry out the provisions of the agreement, advertising for and receiving bids, letting the work, making contracts, levying assessments, paying on estimates, issuing warrants, improvement certificates, or drainage bonds as the case may be, in the same manner as in districts established on petition, except as in said mutual agreement otherwise provided.

[S13, §1989-a28; C24, 27, 31, 35, 39, §**7576;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.155]

89 Acts, ch 126, §2

CS89, §468.145

468.146 Outlet in adjoining county or in another state.

1. When a drainage district is established and a satisfactory outlet cannot be obtained except through lands in an adjoining county, or when an improved outlet cannot be obtained except through lands downstream from the district boundary, the board shall have the power to purchase a right-of-way, to construct and maintain such outlets, and to pay all necessary costs and expenses out of the district funds. The board shall have similar authority relative to the construction and maintenance of silt basins upstream from the district boundary. In case the board and the owners of the land required for such outlet or silt basin cannot agree upon the price to be paid as compensation for the land taken or used, the board is hereby empowered to exercise the right of eminent domain as provided for in chapter 6B in order to procure such necessary right-of-way.

2. When a district is, or has been established in this state and no practicable outlet therefor can be obtained except through lands in an adjoining state, the board of supervisors of the county where said district is situated shall, as drainage commissioners, have power to purchase a right-of-way and to construct a ditch for such outlet in an adjoining state or to contribute to the construction of such a ditch, in an adjoining state and to pay for the same out of the funds of such district. Provided, however, that no drainage district or districts shall be charged or assessed any of the cost for land or work done unless previously agreed to by the board of supervisors or trustees of all of the drainage districts which will be assessed.

[S13, §1989-a39, -a55; C24, 27, 31, 35, 39, §**7577, 7578;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.156, 455.157]

89 Acts, ch 126, §2

CS89, §468.146

2006 Acts, 1st Ex, ch 1001, §45, 49

Referred to in §468.147

468.147 Tax.

The board of supervisors shall have authority to levy a tax on the lands in said drainage district established in this state to provide funds from which to pay for the improvement referred to in section 468.146, subsection 2, should such levy be necessary.

[C31, 35, §7578-c1; C39, §**7578.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.158]

89 Acts, ch 126, §2

CS89, §468.147

468.148 Injuring or diverting — damages.

Any person who shall willfully break down or through or injure any levee or bank of a settling basin, or who shall dam up, divert, obstruct, or willfully injure any ditch, drain, or other drainage improvement authorized by law shall be liable to the person or persons owning

or possessing the lands for which such improvements were constructed in double the amount of damages sustained by such owner or person in possession; and in case of a subsequent offense by the same person, the person shall be liable in treble the amount of such damages.

[C73, §1227; C97, §1961; C24, 27, 31, 35, 39, §**7579;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.159]

89 Acts, ch 126, §2

CS89, §468.148

468.149 Obstructing or damaging.

Any person or persons willfully diverting, obstructing, impeding, or filling up, without legal authority, any ditch, drain, or watercourse or breaking down or injuring any levee or the bank of any settling basin, established, constructed, and maintained under any provision of law, or obstructing, or engaging in travel or agricultural practices upon the improvement or rights-of-way of a levee or drainage district which the governing body thereof has, by resolution, determined to be injurious to such improvement or to interfere with its proper preservation, operation or maintenance, and has prohibited, shall be deemed guilty of a serious misdemeanor and any such unlawful act as above described is hereby declared to be a nuisance and may be abated as such.

Said governing body shall also have the power to repair any ditch, drain or watercourse, or any levee or bank of any settling basin damaged by any person or persons in violation of the resolution of said governing body, after three days' notice to such person or persons to make such repair, in the event that there is a failure to do so, and the expense thereof shall be assessed to such person or persons and shall be certified and collected as other taxes.

[C24, 27, 31, 35, 39, §**7580;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.160]

89 Acts, ch 126, §2

CS89, §468.149

[P] Nuisances in general, chapter 657

468.150 Nuisance — abatement.

Any ditch, drain, or watercourse which is now or hereafter may be constructed so as to prevent the surface and overflow water from the adjacent lands from entering and draining into and through the same is hereby declared a nuisance and may be abated as such.

[S13, §1989-a15; C24, 27, 31, 35, 39, §**7581;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.161]

89 Acts, ch 126, §2

CS89, §468.150

[P] Nuisances in general, chapter 657

468.151 Actions — settlement — counsel.

Levee or drainage districts through their governing bodies are authorized to maintain actions in law or equity for the purposes of preventing or recovering damages that may accrue to such districts on account of the impairment of their functions, or the increase in the cost of maintenance or operation of such districts, or on account of damages to property owned by such districts, resulting from the construction or operation of locks, dams and pools in the Mississippi or Missouri rivers; they may make settlements and adjustments of such damages and written contracts with relation thereto, and receive any appropriations that may be made by the Congress of the United States for the increased cost to drainage or levee districts and may agree to the construction and maintenance of present equipment and of new or remedial works, improvements and equipment as a part of such damages, or as a means of lessening the damages which will be suffered by the said districts. Said districts are further authorized to employ legal and engineering counsel for such purposes and to pay for the same out of the award of damages or out of the maintenance funds of the district.

If a lump sum settlement is made between the United States and the district to provide an annual payment of income therefrom, the county treasurer of the county in which the greater portion of the district is situated shall be custodian of such principal fund. The governing body of the district shall apply to the district court for authority to invest said fund as provided by section 636.23, in addition to the investments therein approved the court may authorize

investment of said fund in interest-bearing bonds or warrants of said district. The income from said fund shall be disbursed by direction of the governing body of the district.

[C39, §**7581.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.162]

89 Acts, ch 126, §2

CS89, §468.151

468.152 Waste banks — private use.

The landowner may have any beneficial use of the land to which the landowner has fee title and which is occupied by the waste banks of an open ditch when such use does not interfere in any way with the easement or rights of the drainage district as contemplated by this subchapter, parts 1 through 5. For the purpose of gaining such use the landowner may smooth said waste banks, but in doing so the landowner must preserve the berms of such open ditch without depositing any additional dirt upon them.

[C24, 27, 31, 35, 39, §**7582;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.163]

89 Acts, ch 126, §2

CS89, §468.152

468.153 Preliminary expenses — how paid.

If the proposed district is all in one county, the board of supervisors may pay all necessary preliminary expenses in connection with the district. If it extends into other counties, the boards of the respective counties may pay a proportion of the expenses as the work done or expenses created in each county bears to the whole amount of work done or expenses created. The amounts shall be ascertained and reported by the engineer in charge of the work and be approved by the respective boards which shall, as soon as paid, charge the amount to the district, as their interests may appear, as soon as the district is established. If the district is not established, the amounts shall be collected upon the bond or bonds of the petitioners.

[S13, §1989-a48; C24, 27, 31, 35, 39, §**7583;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.164]

83 Acts, ch 123, §185, 209; 89 Acts, ch 126, §2

CS89, §468.153

468.154 Additional help for auditor.

If the work in the office of the auditor by reason of the existence of drainage districts is so increased that the regular officer is unable by diligence to do the same, the board of supervisors may employ such additional help as may be necessary to keep the records and transact the business of the drainage districts. The expense of such help shall be paid by the districts in proportion to the amount of work done therefor.

[S13, §1989-a42; C24, 27, 31, 35, 39, §**7584;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.165]

89 Acts, ch 126, §2

CS89, §468.154

468.155 Employment of counsel.

The board is authorized to employ counsel to advise and represent it and drainage districts in any matter in which they are interested. Attorney fees and expenses shall be paid out of the drainage fund of the district for which the services are rendered, or may be apportioned equitably among two or more districts. Such attorneys shall be allowed reasonable compensation for their services, also necessary traveling expenses while engaged in such business. Attorneys rendering such services shall file with the auditor an itemized, verified account of all claims therefor, and statement of expenses, and the same shall be audited and allowed by the board in the amount found to be due.

[S13, §1989-a14; C24, 27, 31, 35, 39, §**7585;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.166]

89 Acts, ch 126, §2

CS89, §468.155

468.156 Compensation of appraisers.

Persons appointed to appraise and award damages and make classification of lands and assess benefits, other than the engineer, shall receive such compensation as the board may fix and in addition thereto, the necessary expense of transportation of said persons while engaged upon their work. They shall file with the auditor an itemized, verified account of the amount of time employed upon said work and their expenses.

[S13, §1989-a41; C24, 27, 31, 35, 39, §**7586;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.167]

89 Acts, ch 126, §2

CS89, §468.156

468.157 Payment.

All compensation for services rendered, fees, costs, and expenses when properly shown by itemized and verified statement shall be filed with the auditor and allowed by the board in such amounts as shall be just and true, and when so allowed shall be paid on order of the board from the levee or drainage funds of the district for which such services were rendered or expenses incurred, by warrants drawn on the treasurer by the auditor.

[S13, §1989-a41; C24, 27, 31, 35, 39, §**7588;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.169]

89 Acts, ch 126, §2

CS89, §468.157

468.158 Purchase at tax sale.

When land in a levee, drainage, or improvement district is being sold at a tax sale for delinquent taxes or assessment, the board of supervisors or the district trustees, as the case may be, shall have authority to bid in such land or any part of it, paying the amount of the bid from the funds of the district, and taking the certificate of sale in their names as trustees for such district, and may thereafter pay any assessments for taxes or benefits levied against said premises from the district funds. The amount paid for redemption which shall include such additional payment, shall be credited to the district.

[C24, 27, 31, 35, 39, §**7589;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.170]

89 Acts, ch 126, §2

CS89, §468.158

[P] Similar provisions, chapter 569

468.159 Tax deed — sale or lease.

If no redemption shall be made the board of supervisors or trustees, as the case may be, shall receive the tax deed as trustees for the district. They shall credit the district with all income from said property. They may lease or sell and convey said property as trustees for such district and shall deposit all money received therefrom to the credit of such district. The board of trustees may also lease or sell and convey such other property of the district, both real and personal, as is no longer needed for the purposes for which the district was established, and any such leases, sales and conveyances prior to July 1, 1970, are hereby legalized and declared to be valid and binding.

This amendment in 1978 shall not be construed to affect any litigation involving the lease, sale or conveyance of property by the board of supervisors or board of trustees, as the case may be, of a drainage or levee district, which litigation is pending on July 1, 1978.

[C24, 27, 31, 35, 39, §**7590;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.171]

89 Acts, ch 126, §2

CS89, §468.159

468.160 Purchase of tax certificate.

When land in a drainage or levee district, or subdistrict, is subject to an unpaid assessment and levy for drainage purposes and has been sold for taxes the board of supervisors of that county, or if control of the district has passed to trustees then such trustees, may purchase the certificate of sale issued by the county treasurer by depositing with the county treasurer the

amount of money to which the holder of the certificate would be entitled if redemption was made at that time, and thereupon the rights of the holder of the certificate and the ownership thereof shall vest in the board of supervisors, or the trustees of that district, as the case may be, in trust for said drainage district or subdistrict.

[C31, 35, §7590-c1; C39, §**7590.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.172]
89 Acts, ch 126, §2
CS89, §468.160
97 Acts, ch 121, §27
Referred to in §468.166

468.161 Terms of redemption.

Redemption from said tax sale shall be made on such terms as may be agreed upon between such board of supervisors or such trustees and the owner of the land involved; but in any case in which the owner of said land will pay as much as fifty percent of the value of the land at the time of redemption the owner shall be permitted to redeem. If the parties cannot agree upon such value, either of them may bring an action against the other in the district court of the county where the land is situated, and the court shall determine the matter. The proceeding shall be triable in equity.

[C31, 35, §7590-c2; C39, §**7590.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.173]
89 Acts, ch 126, §2
CS89, §468.161

468.162 Payment — assignment of certificate.

When such money is deposited with the county treasurer, the treasurer shall by mail notify the purchaser at the tax sale, or the latter's assignee if of record, and shall pay to the holder of such certificate the sum of money deposited with the treasurer for that purpose on surrender of the certificate with proper assignment thereon to the board of supervisors, or to the trustees of the district, as the case may be, as trustee for the district.

[C31, 35, §7590-c3; C39, §**7590.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.174]
89 Acts, ch 126, §2
CS89, §468.162
97 Acts, ch 121, §28

468.163 Funds.

Payment to the county treasurer for such certificate shall be from the fund of said drainage or levee district, or subdistrict, on a warrant issued against that fund which shall have precedence over all other outstanding warrants drawn against that fund in the order of their payment. Should there not be a sufficient amount in the fund of said district, or subdistrict, to pay said warrant then the board of supervisors, or the trustees of the district, as the case may be, are authorized to borrow a sum of money sufficient for that purpose on a warrant for that amount on the fund of the district, or subdistrict, which warrant shall bear interest from date at a rate not exceeding that permitted by chapter 74A and shall have preference in payment over all other unpaid warrants on said fund, and the county treasurer shall so enter the same on the list of warrants in the treasurer's office and call the same for payment as soon as there is sufficient money in said fund.

[C31, 35, §7590-c4; C39, §**7590.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.175]
89 Acts, ch 126, §2
CS89, §468.163
97 Acts, ch 121, §29

468.164 Lease or sale of land.

If said certificate goes to deed to the board or to the trustees, all leases and sales of the land shall be effected and record thereof made in the same manner in which leases and sales

are effected and record thereof made when the county acquires title as a purchaser under execution sale.

[C31, 35, §7590-c5; C39, §**7590.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.176]
89 Acts, ch 126, §2
CS89, §468.164

468.165 Duty of treasurer. Repealed by 2003 Acts, ch 24, § 9.

468.166 Purchase by bondholder.

In any event where upon the request of the holder of any bond or bonds issued by any drainage district the board of supervisors shall fail, neglect or refuse to purchase the certificate of sale issued by the county treasurer and referred to in section 468.160 in manner and form as permitted by said section, the holder of such bond or bonds may, upon filing with the county auditor a sworn statement as to the making of such written request upon the board of supervisors and a recital of the failure of such board to act in the premises by complying with the provisions of said section, in the same manner and form purchase such certificate and the ownership thereof shall thereupon vest in such holder of such bond or bonds in trust for said drainage district or subdistrict, provided, however, that the holder shall have a lien upon said certificate and any beneficial interest arising therefrom for the holder's actual outlays including the holder's reasonable expenses and attorney's fees, if any, incurred in the premises. In the event any such holder of any bond or bonds shall acquire title the holder shall have a right to lease or convey said premises, upon giving thirty days' written notice to the board of supervisors by filing the same with the county auditor and in the event said board shall not approve said lease or sale, the same shall be referred to the district court of the county where the land is situated and there tried and determined in the manner prescribed in section 468.160. Any funds realized from the lease or sale of said land shall be first applied in extinguishing the lien of the holder of the certificate herein provided for and the balance shall be paid to the said drainage bond fund of said district.

[C35, §7590-g1; C39, §**7590.7;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.178]
89 Acts, ch 126, §2
CS89, §468.166

468.167 Voting power.

In case any proposition arises in said district to be determined by the vote of parties owning land therein, notice of such hearing shall be given and the board of supervisors or trustees, as the case may be, while holding title in trust to any such land, shall have the same right to vote for or against such proposition as the former owner would have had if the former owner had not been divested of the title to said land.

[C24, 27, 31, 35, 39, §**7591;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.179]
89 Acts, ch 126, §2
CS89, §468.167

468.168 Inspection of improvements.

The board of any county into which a levee or drainage improvement extends shall cause a competent engineer to inspect such levee or drainage improvement as often as it deems necessary for the proper maintenance and efficient service thereof. The engineer shall make report to the board of the condition of the improvement, together with such recommendations as the engineer deems necessary. For any claim for services and expenses of inspection, the engineer shall file with the auditor an itemized and verified account of such service and expense to be allowed by the board in such amount as it shall find due and paid out of the drainage funds of the district. If the district extends into two or more counties, such action

shall be had jointly by the several boards, and the expenses equitably apportioned among the lands in the different counties.

[S13, §1989-a44; C24, 27, 31, 35, 39, §**7592;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.180]

89 Acts, ch 126, §2

CS89, §468.168

468.169 Watchpersons.

When a levee has been established and constructed in any county, the board shall be empowered to employ one or more watchpersons, and fix their compensation, whose duty it shall be to watch such levee and make repairs thereon in case of emergency. Such employee shall file with the auditor an itemized, verified account for services rendered, and cost and expense incurred in watching or repairing such levee, and the same shall be audited and allowed by the board as other claims and paid by the county from funds belonging to such district.

[S13, §1989-a40; C24, 27, 31, 35, 39, §**7593;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.181]

89 Acts, ch 126, §2

CS89, §468.169

468.170 Technical defects.

The collection of drainage taxes and assessments shall not be defeated where the board has acquired jurisdiction of the interested parties and the subject matter, on account of technical defects and irregularities in the proceedings occurring prior to the order of the board locating and establishing the district and the improvements therein.

[S13, §1989-a46; C24, 27, 31, 35, 39, §**7595;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.183]

89 Acts, ch 126, §2

CS89, §468.170

468.171 Conclusive presumption of legality.

The final order establishing such district when not appealed from, shall be conclusive that all prior proceedings were regular and according to law.

[S13, §1989-a46; C24, 27, 31, 35, 39, §**7596;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.184]

89 Acts, ch 126, §2

CS89, §468.171

468.172 Drainage record.

The board shall provide a drainage record book, which shall be in the custody of the auditor, who shall keep a full and complete record therein of all proceedings relating to drainage districts, so arranged and indexed as to enable any proceedings relative to any particular district to be examined readily.

[S13, §1989-a14, -a42; C24, 27, 31, 35, 39, §**7597;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.185]

89 Acts, ch 126, §2

CS89, §468.172

Referred to in §468.27, 468.298

468.173 Records belong to district.

All reports, maps, plats, profiles, field notes, and other documents pertaining to said matters, including all schedules, and memoranda relating to assessment of damages and

benefits, shall belong to the district to which they relate, remain on file in the office of the county auditor, and be matters of permanent record of drainage proceedings.

[C24, 27, 31, 35, 39, §**7598;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.186]
89 Acts, ch 126, §2
CS89, §468.173
Referred to in §468.27, 468.298

468.174 Membership in the national drainage association.

1. Any drainage district may join and become a member of the national drainage association. A drainage district may pay a membership fee and annual dues upon the approval of the drainage board of such district, but not in excess of the following:

a. One hundred dollars for drainage districts having indebtedness in excess of one million dollars.

b. Fifty dollars for drainage districts having an indebtedness of five hundred thousand dollars and less than one million dollars.

c. Twenty-five dollars for drainage districts having an indebtedness of two hundred fifty thousand dollars and less than five hundred thousand dollars.

d. Ten dollars for drainage districts having an indebtedness less than two hundred fifty thousand dollars.

2. The annual dues for any district shall not exceed one-twentieth of one percent of the outstanding indebtedness of the district.

[C31, 35, §7598-c1; C39, §**7598.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.187]
89 Acts, ch 126, §2
CS89, §468.174
2012 Acts, ch 1023, §66
[T] Section amended

468.175 Membership fee.

The cost of membership fees and dues shall be assessed against the land in the drainage district and collected in the same manner and in the same ratio as assessments for the cost and maintenance of the drainage district.

[C31, 35, §7598-c2; C39, §**7598.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.188]
89 Acts, ch 126, §2
CS89, §468.175

468.176 Other associations.

Levee or drainage districts are authorized to become members of drainage associations for their mutual protection and benefit, and may pay dues and membership fees therein out of the maintenance funds.

[C39, §**7598.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.189]
89 Acts, ch 126, §2
CS89, §468.176

468.177 Receiver authorized.

Whenever the governing board of any drainage or levee district becomes the owner of a tax sale certificate, for any tract of land within the district, and one or more year's taxes subsequent to the tax certificate have gone delinquent, the said governing board may, on behalf of such district, make application to the district court of the county within which such real estate or a part thereof is situated, for the appointment of a receiver to take charge of said delinquent real estate.

[C35, §7598-e1; C39, §**7598.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.190]
89 Acts, ch 126, §2
CS89, §468.177

468.178 Hearing and notice thereof.

Upon the filing of the petition for such appointment, the court shall fix a time and place of hearing thereon, and shall prescribe and direct the manner for the service of notice upon

the owner, lienholders and persons in possession of said real estate, of the pendency of said application.

[C35, §7598-e2; C39, §**7598.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.191]
89 Acts, ch 126, §2
CS89, §468.178

468.179 Appointment — grounds.

Said application shall be heard by the court, at the time and place so designated, and after hearing thereon the court may appoint one of the members of the governing board of said drainage or levee district as receiver for said real estate, on the grounds that the said real estate is producing returns, and that the general and special taxes against the same are not being paid, and direct the receiver to forthwith take possession of the same and to collect the rents, issues and profits therefrom.

[C35, §7598-e3; C39, §**7598.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.192]
89 Acts, ch 126, §2
CS89, §468.179

468.180 Bond.

The cost of the premium of the bond of such receiver shall be paid for out of the general funds of the drainage or levee district, and no charge shall be made by the receiver for compensation in said cause.

[C35, §7598-e4; C39, §**7598.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.193]
89 Acts, ch 126, §2
CS89, §468.180

468.181 Avoidance of receivership.

The owner of any such tract of real estate may avoid the appointment of such receiver, either before or after the action is commenced, by entering into a good and sufficient written instrument with the governing board of such district, agreeing to apply the rent share of the products of said land, or its equivalent to the payment of taxes thereon.

[C35, §7598-e5; C39, §**7598.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.194]
89 Acts, ch 126, §2
CS89, §468.181

468.182 Preference in leasing.

In the event a receiver is appointed for any tract of land, the owner if actually in possession thereof, shall have the preference to rent the same.

[C35, §7598-e6; C39, §**7598.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.195]
89 Acts, ch 126, §2
CS89, §468.182

468.183 Rents — application of.

The rents, issues and profits of the real estate when collected by the receiver, shall be applied as follows:

1. To the payment of the costs and expenses of the receivership.
2. To the payment of current general taxes against said real estate.
3. To the payment of any current special taxes against said real estate.
4. The surplus shall be applied upon any delinquent taxes or tax certificates, and the remainder, if any, shall be paid to the owner of said real estate.

[C35, §7598-e7; C39, §**7598.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455.196]
89 Acts, ch 126, §2
CS89, §468.183

468.184 Land classification and assessment in district.

1. *a.* (1) When a levee district shall have been located and finally established; or

(2) When the required proceedings have been taken to enlarge, extend, strengthen, raise, relocate, reconstruct, or improve any existing levee; or

(3) When the required proceedings have been held to annex additional lands to said levee district or to exclude or eliminate lands from said levee district; or

(4) When a plan of the United States government for the construction of any levee, or a portion of a levee, in said levee district, or for the enlarging, extending, strengthening, raising, relocating, reconstructing, or improving any existing levee, or a portion thereof, in accordance with any such plan in said levee district, has been heretofore or hereafter adopted by such levee district under the provisions of sections 468.201 through 468.216; or

(5) When the board shall, as authorized by section 468.65, determine that the assessments of benefits of said levee district against the lands in said levee district are generally inequitable the board may by resolution, or if a petition is filed by more than one-third of the owners, including corporations, of land within said levee district and who in the aggregate own more than one-third of the value of the land and land improvements in said levee district as the value thereof is then shown by the general tax records of the county or counties in which such land and land improvements are located, requesting the board to do so, the board shall order the lands in said levee district and the improvements on the land in said levee district classified or reclassified in accordance with the assessed taxable value of said land and land improvements as the same are then shown and as the same may be thereafter shown by the assessment roll of the county or counties in which said land and land improvements are located.

b. The assessed taxable value of any land, including land improvements exempt from general taxation but subject to assessment for levee purposes, shall be determined by the county assessor who shall make such determination in accordance with the rules of assessment applicable to adjacent lands and without any additional compensation therefor.

2. *a.* If the board orders classification or reclassification of lands as authorized in subsection 1, the board shall fix a time and place for a hearing to be held upon the action of the board in ordering such classification or reclassification, which hearing shall be held at the county seat of the county having the largest acreage in said levee district. The board shall cause notice of the time and place of such hearing to be served by the county auditor or auditors upon each person whose name appears as owner of lands or land improvements within the levee district in the transfer books of the auditor's office in the county or counties in which said levee district is located, naming that person, and also upon the person or persons in actual occupancy of any tract of land or land improvements located in said levee district, without naming that person or persons. Such notice shall be for the same time and served in the same manner as is provided for the establishment of a levee district, and such notice shall state:

(1) The aggregate estimated costs and expenses which the board proposes to assess under such classification or reclassification;

(2) The total aggregate assessed taxable value of all lands and land improvements in said levee district;

(3) That the said classification or reclassification of benefits will be based on the assessed taxable value of all lands and improvements to lands located in said levee district;

(4) That each tract of land and each land improvement in said levee district will be assessed for its pro rata share of said costs and expenses based upon the ratio that the assessed value of each tract of land and the assessed value of each land improvement bears to the total assessed taxable value of all lands and all land improvements in said district; and

(5) That all objections to said method of classification or reclassification shall be in writing and filed with the auditor of the county in which said land or land improvements are located before the time set for said hearing or with the board of trustees of said district at or before the time set for such hearing.

b. The notice need not show the amount of such costs and expenses to be apportioned to each such owner or to any particular tract of land or land improvement within such levee district.

3. If at or before the time set for said hearing as to such classification or reclassification, there shall have been filed with the county auditor, or auditors in case the district extends into

more than one county, or with said board, a remonstrance or remonstrances or objections to such method of classification or reclassification signed by owners of land and land improvements in the levee district aggregating sixty percent of the total assessed value of the lands plus land improvements in said district as shown by the taxing records in said county or counties in which said district is located, the board shall abandon the alternative method of classification or reclassification herein authorized. The board may then proceed to classify the lands in said levee district as authorized under sections 468.38 through 468.44 or may proceed to reclassify the same as authorized under section 468.65 unless said remonstrances and objections filed as above provided are filed by a majority of the landowners in the levee district and these remonstrants and objectors in the aggregate own seventy percent or more of the acreage of lands in the levee district and, in writing, object to any reclassification of any kind, then the board shall not reclassify the lands within the district under the provision of this section nor shall the same be reclassified under the provisions of section 468.65.

4. At the time fixed or at any adjourned hearing if the remonstrances and objections filed at or before the hearing are not signed by sufficient number of owners, or the owners signing such remonstrances and objections do not meet the requirements hereinabove provided, then the board shall fully consider all objections and remonstrances and shall make a determination as to whether or not the costs and expenses shall be assessed:

a. By the alternative method hereinabove set forth; or

b. As provided by sections 468.38 through 468.44; or

c. That the land should be reclassified as provided in section 468.65; or

d. On the basis of a then existing classification of lands.

5. If the board shall determine that the cost and expenses shall be assessed on the basis of assessed taxable value as provided in subsections 1 through 4, then such basis shall be used for all future assessments made for the purposes of said levee district except if said assessed taxable value of lands and land improvements in said levee district may be changed or revised by the county assessor in the county or counties in which the same are located for general tax purposes, then any such revision made in the assessed taxable value by any such county assessor shall automatically constitute a revision of the classification of such land or land improvements for future assessments made by the board for the purpose of said levee district.

6. In lieu of the hearing provided for in subsections 1 through 5, the board may, and if the petition of owners provided for in subsections 1 through 5 so asks, the board shall call for an election for the purpose of determining the question of classification on the basis of assessed value of lands and land improvements. The question may be submitted at a regular election of the district or at a special election called for that purpose. It shall not be mandatory for the county commissioner of elections to conduct the elections, however provisions of sections 49.43 through 49.47 and of subchapter III of this chapter, insofar as the same are applicable, shall govern all such elections, and the question to be submitted shall be set forth in the notice of election. If sixty percent of the votes cast be in favor of the proposed change in assessment, it shall become effective for all future assessments as heretofore provided in this section. If the question should fail, no new election on the subject may be called for a period of one year.

7. When a levee district has been established and constructed, as an alternative to the other methods prescribed by law, upon reclassification, the levee district may adopt a method of classification and assessment uniform as to all land in the district, including railroad land, public highways and other public land and land exempt from general taxation, based on the total amount to be assessed divided by the total acres within the district. This method of classification and assessment may be adopted either by hearing or by election and shall become effective as heretofore provided in this section.

8. When a drainage district or drainage and levee district has been established and constructed, and after the lands therein have been classified in accordance with the provisions of sections 468.39, 468.40, and 468.41 or reclassified in accordance with section 468.65, the district may adopt methods of assessment for maintenance, repair, and operation of said district uniform as to all land in the district in the same manner and by the same procedures as prescribed in subsections 1 through 7 of this section. Provided, however, that only those lands drained by respective mains and laterals shall be assessed for maintenance,

repair, and operation of said mains and laterals, and provided further that this alternate method of assessment shall not be applied to making improvements in the drainage system.

9. Following the adoption of any alternative method of classification or assessment as provided in this section, the same shall continue in effect until such time as the method is changed pursuant to this section or to section 468.65.

10. *a.* All proceedings taken prior to July 1, 1968, purporting to establish or reestablish a drainage or levee district or districts, or to enlarge or change the boundaries of any drainage or levee district, and any assessments not heretofore declared invalid by any court, are hereby legalized, validated, and confirmed.

b. The foregoing shall not be construed to affect any litigation that may be pending at the time this section becomes effective involving the establishment, reestablishment, enlargement, or change in boundaries or any assessments of drainage or levee districts.

[C71, 73, 75, 77, 79, 81, §455.197]
89 Acts, ch 126, §2
CS89, §468.184
2011 Acts, ch 25, §122

468.185 Repealed by 96 Acts, ch 1033, § 1.

468.186 Easements through a drainage district.

As used in this section, "*person*" shall mean any individual or group of individuals, corporation, firm, company, or association, except a railroad company.

1. When any person proposes to construct a pipeline, electric transmission line, communication line, underground service line, or other similar installations on, over, across, or beneath the right-of-way of any drainage or levee district, such person shall, before beginning construction, obtain from the drainage or levee district an easement to cross the district's right-of-way. The governing body of the district shall require such person to agree to comply with subsection 3 of this section and may, as a condition of granting such easement, attach thereto such additional conditions as they deem necessary. When the necessary easement has been obtained, such person shall construct the installation at the person's own expense and shall pay all costs of any reconstruction, relocation, modification, or reinstallation of the drainage or levee district's facility which may be necessary as a result of construction of the installation for which the easement was granted.

2. After construction of the installation has been completed in accordance with all conditions under which the easement is granted, the drainage or levee district shall maintain its facility at its own expense, and the person who constructed the installation, or the person's successors in interest, shall maintain the installation at the person's or successor's own expense. If the drainage or levee district subsequently undertakes any maintenance, improvement, or reconstruction of its facility which requires the modification, relocation, or reconstruction of the installation, the expense of such modification, relocation, or reconstruction shall be borne by the person who constructed the installation or the person's successors in interest.

3. When the construction of a public highway, or any installation for which an easement has been obtained under subsection 1 of this section, on, over, across, or beneath the right-of-way of any drainage or levee district disturbs or requires replacement of any portion of a tile drain less than twenty inches in diameter, and a portion of such drain will remain wholly or partially exposed after the construction project has been completed, the portion which is to remain exposed and not less than three feet of such drain immediately on either side of the portion which is to remain exposed, shall be replaced either with steel pipe of not less than sixteen gauge or polyvinyl chloride pipe conforming to current industry standards regarding diameter and wall thickness.

[C71, 73, 75, 77, 79, 81, §455.199]
89 Acts, ch 126, §2
CS89, §468.186

468.187 Agreements with outside owners or other districts.

Levee and drainage districts are empowered to enter into agreements with the owners of lands lying outside of said districts, or with other levee and drainage districts or municipalities, to provide levee protection or drainage for such lands on such terms as the board may agree and subject to the following terms and conditions:

1. The facilities of the district furnishing the service shall not be overburdened.
2. There shall be no additional cost to the district furnishing the service.
3. The agreement shall be in writing, be made a part of the drainage records and shall include the following:

a. The description of the lands to be served;

b. The location of tile lines constructed or to be constructed;

c. The consideration to be paid to the district furnishing the service and the classification of the lands to be served; and

d. Such other provisions as the board deems necessary.

[C71, 73, 75, 77, 79, 81, §455.200]

89 Acts, ch 126, §2

CS89, §468.187

468.188 Public improvements which divide a district — procedure.

If it should develop that any type of public improvement, other than the forces of nature, has caused such a change in the district as to effectively sever and cut off some of the land in the district from other lands in the district and from the improvements in the district in such a way as to deprive the land of any further benefits from the improvement, or in some manner to divide the benefits that may be derived from two separated portions of the improvement, then the board of supervisors or the board of trustees in charge may upon notice to interested parties and hearing as provided by this subchapter, parts 1 through 5, for the original establishment of a district make an order to remove lands so deprived of benefits from the district without any reclassification, or may subdivide the district into two separate entities if the public improvement splits the district into two separate units, each of which may still derive some separate benefits from the separated portions of the district.

If the public improvement is such as to leave two separate portions of the improvement that are still operable and of benefit to the land on each side of the division made by the public improvement, then the board may divide the district into two separate units so that each may perform further work on the improvements in their respective parts, but neither shall be charged for work completed on the opposite side of the new improvement that divides them and may only be charged for the work done in that portion of the district remaining on their side of the division.

The same authority provided in this section shall vest in the board of supervisors or the board of trustees in the event a drainage district in any manner relinquishes its control over any portion of its improvements or its obligation to maintain same to another district and lands may be removed from the district or the district may be divided as provided in this section.

The board may further in dividing the district award to each of the separated portions of the district the improvement remaining in each portion, determine the value of the improvement so remaining on each side and secondly determine the contributions of the lands in the separated portions to the improvements and the upkeep of the earlier district, and if the contribution is proportionate neither side shall owe the other portion of the district any money, but if contribution is disproportionate, the board shall determine an equitable adjustment and the amount of payment required for one portion to pay to the other to buy the existing improvement.

If land is eliminated from any further benefits, there need not be any reclassification and the board may remove the same from the district in the same manner as if the land has been destroyed in whole by the erosion of a river and spread any deficiency in assessment among the remaining lands as provided by section 468.49.

"Type of public improvement" for the purpose of this section includes drainage or levee improvements or new highways.

[C71, 73, 75, 77, 79, 81, §455.201]

89 Acts, ch 126, §2

CS89, §468.188

Referred to in §468.92, 468.250, 468.396

468.189 Closing agricultural drainage wells — assessment of costs within a drainage district.

The costs of closing an agricultural drainage well and constructing an alternative drainage system as part of a drainage district shall be assessed as a special assessment by the board as provided in this chapter.

97 Acts, ch 193, §11

468.190 Farm mediation not applicable.

A case, dispute, or other controversy arising under this chapter shall not be subject to any of the requirements of mediation provided in chapter 654A, 654B, or 654C.

2011 Acts, ch 94, §1

468.191 through 468.200 Reserved.

PART 2

FEDERAL FLOOD CONTROL COOPERATION

Referred to in §331.502, 331.552, 350.4, 358.23, 461A.76, 468.3, 468.10, 468.41, 468.49, 468.59, 468.65, 468.67, 468.96, 468.115, 468.119, 468.126, 468.140, 468.152, 468.188, 468.207, 468.211, 468.240, 468.273, 468.283, 468.284, 468.288, 468.292, 468.297, 468.308, 468.335, 468.345, 468.529

468.201 Plan of improvement.

1. Whenever the government of the United States acting through its proper agencies or instrumentalities will undertake the original construction of improvements or the repair or alteration of existing improvements which will accomplish the purposes for which the district was established or aid in the accomplishment thereof and shall cause to be filed in the office of the auditor of the county in which said district is located a plan of such improvement or for the repair or alteration of existing improvements, the board shall have jurisdiction, power and authority, upon the notice, hearing and determination hereinafter provided, to adopt such plan of improvement or of repair or alteration of existing improvements and to provide necessary right-of-way therefor; and to pay such portion of all costs and damages incident to the adoption of such plan, the construction thereunder and the maintenance and operation of the works as will not be discharged by the federal government under legislation existing at the time of adoption; also to enter into such agreements with the United States government as may be necessary to meet federal requirements including the taking over, repair and maintenance of the works and to perform under such agreements.

2. If the cost to the district of the repair or alteration of existing improvements contemplated by this section does not exceed twenty-five percent of the sum of the original cost to the district and the cost of subsequent improvements, including all federal contributions, the board may proceed under the provisions of section 468.126, without notice and hearing, and without appraisement as contemplated by section 468.210, but the remaining provisions of this section and sections 468.202 through 468.216 that are not in conflict with section 468.126 shall remain applicable.

3. If the federal program divides a project into separate phases, each phase shall be considered a separate program as described in section 468.126, subsection 4, and shall in no event be construed as an unauthorized division into separate programs to avoid the twenty-five percent limitation prescribed for making improvements under said section 468.126, subsection 4, without notice and hearing.

[C50, 54, 58, 62, 66, §455.201; C71, 73, 75, 77, 79, 81, §455.202]

89 Acts, ch 126, §2
CS89, §468.201
2011 Acts, ch 25, §123
Referred to in §468.38, 468.62, 468.184, 468.202, 468.203, 468.212

468.202 Agreement in advance.

The agreement with the federal government contemplated in section 468.201 may be entered into by the board in advance of the filing of the plan — such agreement to be effective if the plan is finally adopted. If the plan is approved the board shall make a record of any such cooperative agreement.

[C50, 54, 58, 62, 66, §455.202; C71, 73, 75, 77, 79, 81, §455.203]
89 Acts, ch 126, §2
CS89, §468.202
Referred to in §468.38, 468.184, 468.201

468.203 Engineer appointed.

After the filing of the plan contemplated in section 468.201 the board shall, at its first session thereafter, regular, special or adjourned, appoint a disinterested and competent civil or drainage engineer who shall give bond in an amount to be fixed by the board conditioned for the faithful and competent performance of the engineer's duties.

[C50, 54, 58, 62, 66, §455.203; C71, 73, 75, 77, 79, 81, §455.204]
89 Acts, ch 126, §2
CS89, §468.203
Referred to in §468.38, 468.184, 468.201

468.204 Engineer's report.

The engineer shall examine the plan filed by the federal agency and the lands affected thereby and shall make and file with the county auditor a full written report which, together with the federal plan, will show the following:

1. The character and location of all contemplated improvements, and the plats, profiles and specifications thereof.
2. The particular description and acreage of land required from each forty-acre tract or fraction thereof for right-of-way, borrow pits or other purposes together with congressional or other description of each tract and the names of the owners thereof as shown by the transfer books in the office of the auditor.
3. A particular description of each forty-acre tract or fraction thereof that will be excluded from benefit by adoption of the plan as filed, together with the name of the owners thereof as shown by the transfer books in the office of the auditor.
4. A particular description of each forty-acre tract or fraction thereof outside the district which will benefit from adoption of the plan as filed and the name of the owner thereof as shown by the transfer books in the office of the auditor.
5. Such rights-of-way or portions thereof previously established or acquired as will be rendered unnecessary by adoption of the federal plan and any unpaid damages awarded therefor.
6. Such other damages previously awarded as will be affected by adoption of the federal plan.
7. The recommendation of the engineer with respect to the adoption of the plan.

[C50, 54, 58, 62, 66, §455.204; C71, 73, 75, 77, 79, 81, §455.205]
89 Acts, ch 126, §2
CS89, §468.204
Referred to in §468.38, 468.184, 468.201

468.205 Supplemental reports.

Upon the filing of such report the board shall examine and consider the same together with the plan and the commitments involved in its adoption and may require supplemental reports of the engineer or of another disinterested engineer with such data as they may deem necessary or desirable including recommendations for any change or modification, negotiate

with the federal agency involved and amend the plan in such manner as may be mutually agreed upon. The engineer shall make such supplemental reports as may be required by the board or necessitated by amendment of plan.

[C50, 54, 58, 62, 66, §455.205; C71, 73, 75, 77, 79, 81, §455.206]
89 Acts, ch 126, §2
CS89, §468.205
Referred to in §468.38, 468.62, 468.184, 468.201

468.206 Notice and hearing.

If upon consideration of the plan or amended plan and the report or reports of the engineer and the commitments involved in the adoption of the plan the board finds that the district will benefit therefrom or the purposes for which the district was established will be promoted thereby, the board shall adopt the same as a tentative plan, entering order to that effect and fixing a date for hearing thereon not less than thirty days thereafter and directing the auditor to cause notice to be given of such hearing as hereinafter provided.

[C50, 54, 58, 62, 66, §455.206; C71, 73, 75, 77, 79, 81, §455.207]
89 Acts, ch 126, §2
CS89, §468.206
Referred to in §468.38, 468.62, 468.184, 468.201

468.207 Form of notice.

Such notice shall be captioned in the name of the district and shall be directed to the owners of each tract or lot within said levee or drainage district, including railroad companies having rights-of-way, lienholders and encumbrancers, and to all owners, lienholders or encumbrancers of lands which an adoption of the plan would exclude from benefits and of lands outside the district which will benefit therefrom and to all other persons whom it may concern and, without naming them, to the occupants of all lands affected and shall set forth that there is on file in the office of the auditor a plan of construction of the federal agency (naming it), together with reports of an engineer thereon, which the board has tentatively approved, and that such plan may be amended before final action; also the day and hour set for hearing on the adoption of said plan, and that all claims for damages, except claims for land required for right-of-way or construction, and all objections to the adoption of said plan for any reason must be made in writing and filed in the office of the auditor at or before the time set for hearing. Provisions of this subchapter, parts 1 through 5, for giving notice, waiver of notice, waiver of objection and damages and adjournment for service contained in sections 468.15 through 468.20 shall apply.

[C50, 54, 58, 62, 66, §455.207; C71, 73, 75, 77, 79, 81, §455.208]
89 Acts, ch 126, §2
CS89, §468.207
Referred to in §468.38, 468.62, 468.184, 468.201

468.208 Amendment — new parties.

The board may continue the hearing pending decision and may amend the plan but in the event of amendment the board shall continue further hearing to a fixed date. All parties over whom the board then has jurisdiction shall take notice of such further hearing but any new parties rendered necessary by the modification or change of plans shall be served with notice as for the original hearing.

[C50, 54, 58, 62, 66, §455.208; C71, 73, 75, 77, 79, 81, §455.209]
89 Acts, ch 126, §2
CS89, §468.208
Referred to in §468.38, 468.62, 468.184, 468.201

468.209 Entry of order — effect.

If the board, after consideration of the subject matter, including all objections filed to the adoption of the plan and all claims for damages, shall find that the district will be benefited by adoption of the plan or the purposes for which the district was established is furthered

thereby, they shall enter order approving and adopting such final plan. Such order shall have the effect of:

1. Altering the boundaries of the district to conform to the changes effected by the plan adopted.

2. Canceling all existing awards for damages for property not appropriated for right-of-way or construction and rendered unnecessary by the plan so adopted.

3. Canceling all awards previously made for damages other than for right-of-way or construction but reinstating the claims for such damages which said claims may be amended by the claimants within ten days thereafter.

4. Canceling all unpaid assessments for benefits on lands excluded from the district by adoption of the plan. The assessments so canceled shall become part of the costs of the improvement.

5. Establishing as benefited thereby the lands added to the district by adoption of the plan and rendering same subject to classification and assessment.

6. Whenever a plan has been adopted as contemplated by this section, modification and changes can be made therein without further notice or hearing, provided the same do not increase or decrease the estimated cost of the plan to the district by more than twenty-five percent.

[C50, 54, 58, 62, 66, §455.209; C71, 73, 75, 77, 79, 81, §455.210]
89 Acts, ch 126, §2
CS89, §468.209
Referred to in §468.38, 468.62, 468.184, 468.201

468.210 Appraisement.

The board shall thereupon appoint three appraisers of the qualifications prescribed in section 468.24, who shall qualify in the manner therein provided, and shall fix a time for hearing on their report of which all interested parties shall take notice. The appraisers shall view the premises and fix and determine the damages to which each claimant is entitled, including claimants whose awards for damages were canceled by the order of adoption, and shall place a separate valuation upon the acreage of each owner taken for right-of-way or other purposes necessitated by adoption of the plan and shall file a report thereof in writing in the office of the auditor at least five days before the date fixed by the board for hearing thereon. Should the report not be filed on time or should good cause for delay exist the board may postpone the time for final action on the subject and, if necessary, may appoint other appraisers. Thereafter the provisions of section 468.26 shall apply.

[C50, 54, 58, 62, 66, §455.210; C71, 73, 75, 77, 79, 81, §455.211]
89 Acts, ch 126, §2
CS89, §468.210
Referred to in §468.38, 468.184, 468.201

468.211 Assessment of benefits.

Appointment of commissioners to assess benefits and classify lands within the district and all proceedings relative to such assessment and classification shall be as otherwise provided in this subchapter, parts 1 through 5, except that when the lands of the district have previously been classified, the commissioners shall classify and assess only such lands as have been added to the district by adoption of the plan and recommend such changes in existing classifications as are materially affected by the plan so adopted. The board may, upon hearing, adjust the classification of lands affected by the plan.

[C50, 54, 58, 62, 66, §455.211; C71, 73, 75, 77, 79, 81, §455.212]
89 Acts, ch 126, §2
CS89, §468.211
Referred to in §468.38, 468.184, 468.201

468.212 Installments — warrants.

The board shall levy the costs contemplated in section 468.201 upon all of the lands of the district on the basis of the classification for benefits as finally established and the assessments so levied shall be paid in one installment unless the board in its discretion shall provide

for the payment thereof in not more than twenty equal installments with interest at a rate determined by the board notwithstanding chapter 74A. The board may issue anticipatory warrants bearing interest at a rate determined by the board, notwithstanding chapter 74A. The warrants may be numbered and state a maturity date. The warrants may be sold by the board for cash in an amount not less than the face value thereof, together with accrued interest, if any.

[C50, 54, 58, 62, 66, §455.212; C71, 73, 75, 77, 79, 81, §455.213]
89 Acts, ch 126, §2
CS89, §468.212
94 Acts, ch 1035, §6
Referred to in §468.38, 468.184, 468.201

468.213 Subsequent levies.

The board shall make such subsequent levies as may be necessary to meet the expenses of the district including costs of maintenance, repair and operation of the works.

[C50, 54, 58, 62, 66, §455.213; C71, 73, 75, 77, 79, 81, §455.214]
89 Acts, ch 126, §2
CS89, §468.213
Referred to in §468.38, 468.184, 468.201

468.214 Applicable statutes.

Except as otherwise provided herein all provisions of this chapter relative to assessment of damages, appointment of an engineer, employment of counsel, payment for work, levy and collection of drainage and levee assessments and taxes, the issue of improvement certificates and drainage or levee bonds, the taking of appeals and the manner of trial thereof and all other proceedings relating thereto shall apply.

[C50, 54, 58, 62, 66, §455.214; C71, 73, 75, 77, 79, 81, §455.215]
89 Acts, ch 126, §2
CS89, §468.214
Referred to in §468.38, 468.184, 468.201

468.215 Scope of plan.

The provisions of this part shall be applicable to districts organized or established under the provisions of subchapters II and III.

[C50, 54, 58, 62, 66, §455.215; C71, 73, 75, 77, 79, 81, §455.216]
89 Acts, ch 126, §2
CS89, §468.215
Referred to in §468.38, 468.184, 468.201

468.216 Districts under trustees.

When a district is in the management of trustees as provided in subchapter III the board of trustees shall have the jurisdiction to adopt the federal plan as provided herein and to exercise all other powers herein granted except that any levy shall be made by the board of supervisors upon certificate of the amount necessary by the trustees as provided in section 468.527.

[C50, 54, 58, 62, 66, §455.216; C71, 73, 75, 77, 79, 81, §455.217]
89 Acts, ch 126, §2
CS89, §468.216
Referred to in §468.38, 468.184, 468.201

468.217 through 468.219 Reserved.

PART 3

INTERACTION WITH STATE AND LOCAL GOVERNMENTS

Referred to in §331.502, 331.552, 350.4, 358.23, 461A.76, 468.3, 468.10, 468.41, 468.49, 468.59, 468.65, 468.67, 468.96, 468.115, 468.119, 468.126, 468.140, 468.152, 468.188, 468.207, 468.211, 468.240, 468.273, 468.283, 468.284, 468.288, 468.292, 468.297, 468.308, 468.335, 468.345, 468.529

468.220 Occupancy and use permitted — assessments paid.

Any levee or drainage district organized, or in the process of being organized, under the laws of this state may occupy and use for any lawful levee or drainage purpose land owned by the state of Iowa, upon first obtaining permission to do so from the state or state agency controlling the same.

In the case of lands lying within the beds of meandered streams and border streams the permission shall be obtained from the natural resource commission of the department of natural resources. In the case of lands that are under the control of no office or agency of the state, then the permission shall be obtained from the executive council.

Such permission shall not be unreasonably withheld and shall be in the form of an easement executed by the governor or in the case of an agency, by the chairperson or presiding officer thereof, and when once granted shall be perpetual, except that if no use is made of the same for a period of five years such permission shall immediately thereafter expire.

All uses and occupancies as contemplated by this section existing on July 4, 1961, are hereby legalized.

The state of Iowa, its agencies and subdivisions shall be financially responsible for drainage and special assessments against land which they own, or hold title to, within existing drainage districts.

[C62, 66, §455.217; C71, 73, 75, 77, 79, 81, §455.218]
89 Acts, ch 126, §2
CS89, §468.220

468.221 Written communication delivered to the state or a local government.

1. This section applies whenever a board or county officer acting under this chapter is required to deliver a written communication to a state agency or local government. The written communication includes but is not limited to a notice, service of process, demand, statement, or a report.

2. *a.* If the written communication is to be delivered to a state agency, it may be delivered to the administrative head of the state agency or its governing body. The written communication may also be delivered to a person designated by the administrative head of the state agency or its governing body. The written communication may be delivered to the executive council if the administrative head of the state agency or its governing body cannot be determined.

b. If the written communication is to be delivered to a local government, it may be delivered to the governing body of the local government. The written communication may also be delivered to a person designated by the governing body. As used in this section, *"local government"* includes a county, city, township, or any special purpose district or authority.

2011 Acts, ch 39, §1; 2012 Acts, ch 1021, §87
[T] Subsection 2, paragraph b amended

468.222 through 468.229 Reserved.

PART 4

BOARD OF COUNTY DRAINAGE ADMINISTRATORS

Referred to in §331.502, 331.552, 350.4, 358.23, 461A.76, 468.3, 468.10, 468.41, 468.49, 468.59, 468.65, 468.67, 468.96, 468.115, 468.119, 468.126, 468.140, 468.152, 468.188, 468.207, 468.211, 468.240, 468.273, 468.283, 468.284, 468.288, 468.292, 468.297, 468.308, 468.335, 468.345, 468.529

468.230 Administrators appointed.

The county board of supervisors of any county of this state in which one or more drainage districts are established may by resolution establish a board of county drainage administrators. All of the powers, duties, and responsibilities now or hereafter conferred on county boards of supervisors in this chapter shall thereupon be transferred to and thereafter exercised by the board of county drainage administrators. A drainage or levee district may be established pursuant to subchapter III.

[C71, 73, 75, 77, 79, 81, §455.219]
89 Acts, ch 126, §2
CS89, §468.230

468.231 Administrator areas.

When establishing a board of county drainage administrators, the board of supervisors shall divide the county, along township lines, into three drainage administrator areas of approximately equal territory. The board of county drainage administrators shall consist of one resident freeholder appointed by the county board of supervisors from each area, and at least two of the administrators shall be agricultural landowners. The members first appointed shall hold office for terms of one, two, and three years respectively, as indicated and fixed by the county board of supervisors. Thereafter, succeeding members shall be appointed for a term of three years, except that vacancies occurring otherwise than by expiration of a term shall be filled by appointment for the unexpired term. Any member of the board of county drainage administrators who shall cease to have any of the qualifications prescribed by this section shall thereupon be disqualified as a member of the board and the office shall be deemed vacant. Members of the board of county drainage administrators may be removed by the county board of supervisors for cause, but every such removal shall be by written order which shall be filed with the county auditor.

[C71, 73, 75, 77, 79, 81, §455.220]
89 Acts, ch 126, §2
CS89, §468.231

468.232 Compensation.

The members of the board of county drainage administrators shall each receive compensation at an hourly rate established by the county board of supervisors for time actually devoted to the duties of their office, and reimbursement at the rate established by section 70A.9 for travel to and from meetings of, or other places of performing the duties of, the board, and other actual and necessary expenses incurred in the performance of their duties.

[C71, 73, 75, 77, 79, 81, §455.221]
89 Acts, ch 126, §2
CS89, §468.232

468.233 How paid.

The compensation and expenses of the county board of drainage administrators, for each day or portion thereof necessarily expended in the transaction of the business of a drainage or levee district, shall be paid out of the funds of the district served. The administrators shall file with the auditor or auditors, as the case may be, itemized, verified statements of their time devoted to the business of the district and the expenses incurred. If the administrators transact business of more than one district on a given day, they shall prorate their claims for compensation proportionately among the districts served on that day, but in no case shall a

member of the board of county drainage administrators claim or receive a sum in excess of seventeen dollars and fifty cents, plus actual and necessary expenses, for a single day.

[C71, 73, 75, 77, 79, 81, §455.222]
89 Acts, ch 126, §2
CS89, §468.233

468.234 Soil and water conservation districts.

The governing board of every drainage or levee district organized under the laws of this state shall take notice of the district plan, and shall conform to the duly adopted rules, of the soil and water conservation district or districts in which the drainage or levee district is located. However, this section does not grant authority not otherwise granted by law to the governing boards of drainage or levee districts.

[C73, 75, 77, 79, 81, §455.223]
86 Acts, ch 1238, §61; 89 Acts, ch 83, §53; 89 Acts, ch 126, §2
CS89, §468.234

468.235 through 468.239 Reserved.

PART 5

COUNTY-CITY DRAINAGE DISTRICT

Referred to in §331.502, 331.552, 350.4, 358.23, 461A.76, 468.3, 468.10, 468.41, 468.49, 468.59, 468.65, 468.67, 468.96, 468.115, 468.119, 468.126, 468.140, 468.152, 468.188, 468.207, 468.211, 468.240, 468.273, 468.283, 468.284, 468.288, 468.292, 468.297, 468.308, 468.335, 468.345, 468.529

468.240 Supervisors of county over two hundred thousand may establish.

The board of a county with a population of two hundred thousand persons or more that has established a drainage district located partly within the corporate limits of a city may expend federal grants or revenue sharing money or other funds not derived from local tax levies in amounts as the board deems proper to pay any part of the cost of improvements authorized in this subchapter, parts 1 through 5. The board may issue general obligation bonds to pay any part of the cost of improvements authorized in this subchapter, parts 1 through 5. The bonds shall be issued according to the provisions of chapter 384, division III, relating to general obligation bonds for essential corporate purposes.

[C77, 79, 81, §455.225]
89 Acts, ch 126, §2
CS89, §468.240

468.241 through 468.249 Reserved.

PART 6

DISSOLUTION OF DRAINAGE DISTRICTS

468.250 Jurisdiction to dissolve districts and abandon or transfer improvements.

Drainage or levee districts may be dissolved and abandoned or assimilated by the procedures prescribed by this part.

1. When any drainage or levee district is free from indebtedness and it shall appear that the necessity therefor no longer exists or that the expense of the continued maintenance of the ditch or levee is in excess of the benefits to be derived therefrom, the board of supervisors or board of trustees, as the case may be, shall have power and jurisdiction, upon petition of a majority of the landowners, who, in the aggregate, own sixty percent of all land in such district, to abandon the same and dissolve and discontinue such districts in the manner prescribed by sections 468.251 through 468.255. Nothing in this subsection shall prevent the board from eliminating land from a drainage district as permitted under section 468.188.

2. When one drainage or levee district, either intracounty or intercounty, includes within its territory all of the territory of one or more other drainage or levee districts, and it appears that one assessment and one governing body would be to the benefit of the owners and occupants of the land within the mutual jurisdiction of the overlying and the contained districts, the board of supervisors or board of trustees may effect the dissolution of a contained district and the transfer of jurisdiction and control over that contained district's improvements to the overlying district, in the manner prescribed by sections 468.256 through 468.261.

[C35, §7598-g1; C39, §**7598.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §456.1]
89 Acts, ch 126, §2
CS89, §468.250
Referred to in §468.255, 468.256

468.251 Notice of hearing.

Upon the filing of such petition the board shall enter an order fixing the date for hearing thereon not less than forty days from the date of the filing thereof and shall enter an order directing the county auditor, if such district is under the control of the board of supervisors, or the clerk of the board, if under the control of a board of trustees, to immediately cause notice of hearing thereon to be served on the owners of lands in such district as may then be provided by law in proceedings for the establishment of a drainage or levee district.

[C35, §7598-g2; C39, §**7598.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §456.2]
89 Acts, ch 126, §2
CS89, §468.251
Referred to in §468.250, 468.255

468.252 Hearing on petition.

At the time set for hearing on said petition the board shall hear and determine the sufficiency of the petition as to form and substance (which petition may be amended at any time before final action thereon), and all objections filed against the abandonment and dissolution of such district. If it shall find that such district is free from indebtedness and that the necessity for the continued maintenance thereof no longer exists or that the expense of the continued maintenance of such district is not commensurate with the benefits derived therefrom, it shall enter an order abandoning and dissolving such district, which order shall be filed with the county auditor of the county or counties in which such district is situated and noted on the drainage record.

[C35, §7598-g3; C39, §**7598.13;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §456.3]
89 Acts, ch 126, §2
CS89, §468.252
Referred to in §468.250, 468.255

468.253 Appeal.

Appeal may be taken from the order of the board to the district court of the county in which such district or a part thereof is situated, in the same time and manner as appeal may be taken from an order of the board of supervisors establishing a district.

[C35, §7598-g4; C39, §**7598.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §456.4]
89 Acts, ch 126, §2
CS89, §468.253
Referred to in §468.250, 468.255
[P] Appeals, §468.83 et seq.

468.254 Expense — refund.

In case there are sufficient funds on hand in such district, or there are unpaid assessments outstanding or other property belonging to such district in an amount sufficient to pay such expense, the expense of abandonment and dissolution shall be paid out of such funds or out of funds realized by the sale of such property. Where such district is free of indebtedness but there are not sufficient funds on hand or unpaid assessments outstanding or other assets to pay such expense the board shall assess such expense against the property in the district in the same proportions as the last preceding assessments of benefits. Any excess remaining to

the credit of such district after sale of its assets and after payment of such expenses shall be prorated back to the property owners in the district in the proportions according to class and benefits as last assessed. If the petition is denied, the costs of said proceedings shall be paid by the petitioning owners.

[C35, §7598-g5; C39, §**7598.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §456.5]
89 Acts, ch 126, §2
CS89, §468.254
Referred to in §468.250, 468.255

468.255 Abandonment of rights-of-way.

If a dissolution is effected pursuant to section 468.250, subsection 1, and sections 468.251 through 468.254, the rights-of-way of the district for all purposes of the district shall be deemed abandoned.

[C35, §7598-g6; C39, §**7598.16;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §456.6]
89 Acts, ch 126, §2
CS89, §468.255
Referred to in §468.250

468.256 Initiating dissolution of contained district.

To initiate the dissolution of a contained district under the circumstances described in section 468.250, subsection 2:

1. The board of supervisors or board of trustees of the district proposed to be dissolved shall enter an order for the proposed dissolution of that district and the surrender of its improvements and rights-of-way to the overlying district.

2. The board of supervisors or board of trustees of the overlying district shall enter an order approving the proposed acceptance of those improvements and rights-of-way.

[C81, §456.11]
89 Acts, ch 126, §2
CS89, §468.256
Referred to in §468.250, 468.257, 468.260, 468.261

468.257 Procedure for notice of hearing.

1. The board of the overlying district shall enter an order fixing a place and a time, not less than forty days after the date of the later of the two orders required by section 468.256, for a hearing on the proposals described in the two orders.

2. The auditor, or auditors if the overlying district includes land lying in two or more counties, shall cause notice of the proposals and of the hearing to be given immediately upon the entry of an order under subsection 1. The notice must:

a. Include the texts of the orders entered pursuant to section 468.256, the date, time and place of the hearing, and a statement that all objections to the proposals embodied in the orders must be made in writing and filed in the office of the auditor at or before the time set for the hearing.

b. Be directed to all of the following:

(1) The owner of each tract of land or lot within the overlying district, as shown by the transfer books of the auditor's office, including railway companies having right-of-way in the district.

(2) All lienholders or encumbrancers of land within the overlying district, without naming them.

(3) All actual occupants of land in the overlying district, without naming individuals.

(4) All other persons whom it may concern.

3. Except as otherwise required by section 468.16, the notice required by this section shall be served by publication once in a newspaper of general circulation in each county in which the overlying district's land is situated. The publication shall be made not less than twenty

days prior to the day set for the hearing. Proof of service shall be made by affidavit of the publisher.

[C81, §456.12]
89 Acts, ch 126, §2
CS89, §468.257
Referred to in §468.250, 468.258, 468.260, 468.261

468.258 Procedure at hearing.

The hearing shall be convened at the time and place fixed in accordance with section 468.257, subsection 1, and the procedure at the hearing shall be as prescribed by this section.

1. The board of the contained district shall first hear all objections filed against the dissolution of the district and the surrender of its improvements to the overlying district. If, at the conclusion of that portion of the hearing, that board finds that the contained district is free of debt, that the economic benefits of the continued maintenance of that district would not be commensurate with its cost, and that it would be advantageous to dissolve and discontinue the contained district and surrender its improvements and rights-of-way to the overlying district, it shall enter an order dissolving the contained district and directing the surrender of its improvements and rights-of-way, conditioned on acceptance by the overlying district.

2. Immediately thereafter, the board of the overlying district shall hear all objections filed against the acceptance of the contained district's improvements and their maintenance. If it finds that the improvements are conducive to the drainage of surface waters from agricultural lands and all other lands in the overlying district or the protection of the lands from overflow, it shall enter an order accepting the improvements and rights-of-way of the contained district.

3. Orders issued pursuant to subsections 1 and 2 shall be filed with the county auditor of the county or counties in which the affected districts are situated and noted on the drainage record.

4. If at or before the time set for the hearing there have been filed with the county auditor or auditors, if either the contained or overlying district extends into more than one county, or with the board of either district, one or more remonstrances or objections to the dissolution of the contained district, or to the acceptance of that district's improvements and rights-of-way by the overlying district, signed by owners of land and land improvements in either district aggregating sixty percent of the total assessed value of the land in that district as shown by the taxing records in the county or counties in which that district is located, the board to which the remonstrances or objections have been made shall abandon its proposed action.

[C81, §456.13]
89 Acts, ch 126, §2
CS89, §468.258
Referred to in §468.250, 468.259, 468.260, 468.261

468.259 Election in lieu of hearings.

In lieu of the hearings provided for in section 468.258, the board of either district may call an election for the purpose of determining the dissolution of the contained district or the acceptance of that district's improvements and rights-of-way by the overlying district. The questions may be submitted at a regular election of the district or at a special election called for that purpose. It is not mandatory for the county commissioner of elections to conduct the elections, however the provisions of sections 49.43 to 49.47, and of subchapter III of this chapter, as they are applicable, shall govern the elections, and the question to be submitted shall be set forth in the notice of election.

1. If sixty percent or more of the votes cast are in favor of the proposed dissolution of the contained district involved, the board of that district shall enter an order dissolving the contained district and directing the surrender of its improvements and rights-of-way, conditioned on acceptance by the overlying district.

2. If sixty percent or more of the votes cast in the overlying district are in favor of the proposed acceptance by that district of the contained district's improvements and rights-of-way, the board of the overlying district shall enter an order accepting the improvements and rights-of-way of the contained district.

3. Orders issued pursuant to subsections 1 and 2 shall be filed with the county auditor of the county or counties in which the affected districts are situated and noted on the drainage record.

[C81, §456.14]
89 Acts, ch 126, §2
CS89, §468.259
Referred to in §468.250, 468.260, 468.261

468.260 Effect of dissolution, surrender and acceptance.

When a contained district dissolves and surrenders its improvements and rights-of-way to the jurisdiction and control of an overlying district, and the overlying district accepts those improvements and rights-of-way, in accordance with sections 468.256 through 468.259:

1. It is presumed that the classification of the lands which were included in the dissolved district, as previously determined by the commissioners in the classification of those lands as a part of the overlying district, remains equitable and no reclassification of the overlying district or any part of it is necessary.

2. The improvements surrendered and accepted are at all times under the supervision of the board of the overlying district, and it is the duty of that board to keep the improvements in repair as provided in section 468.126 as fully and completely as though the improvements were a part of the original construction or improvements in the overlying district.

3. It is presumed that:

a. The improvements surrendered and accepted are an integral part of the overlying district's improvements, and are a public benefit and conducive to the public health, convenience and welfare.

b. No value is taken into consideration for the existing improvements nor is credit given to the parties owning them, and they shall not be considered an asset of the district that is dissolved.

4. The original cost and the subsequent cost of improvements in the district that has been dissolved are added to and become a part of the original cost and the subsequent cost of improvements in the overlying district.

[C81, §456.15]
89 Acts, ch 126, §2
CS89, §468.260
Referred to in §468.250

468.261 Costs borne by overlying district.

The overlying district shall pay all costs of the proceedings held pursuant to sections 468.256 through 468.259.

[C81, §456.16]
89 Acts, ch 126, §2
CS89, §468.261
Referred to in §468.250

468.262 through 468.269 Reserved.

SUBCHAPTER II

JURISDICTIONS

Referred to in §331.382, 468.215, 468.500

PART 1

INTERCOUNTY LEVEE OR DRAINAGE DISTRICTS

Referred to in §331.502, 331.552, 350.4, 468.3, 468.345, 468.397

468.270 Petition and bond.

When the levee or drainage district embraces land in two or more counties, a duplicate of the petition of any owner of land to be affected or benefited by such improvement shall be filed with the county auditor of each county into which said levee or drainage district will extend, accompanied by a duplicate bond to be filed with the auditor of each of the said counties as provided when the district is wholly within one county, in an amount and with sureties approved by the auditor of the county in which the largest acreage of the district is situated, which bond shall run in favor of the several counties in which it is filed.

[S13, §1989-a29; C24, 27, 31, 35, 39, §**7599;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.1]

89 Acts, ch 126, §2

CS89, §468.270

Referred to in §468.305

[P] Procedure for converting several intracounty districts into one intercounty district, see §468.305 – 468.309

468.271 Commissioners.

Upon the filing of such petition in each county and the approval of such duplicate bond by the proper auditor, the board of each of such counties shall appoint a commissioner and the joint boards shall appoint a competent engineer who shall also act as a commissioner.

[S13, §1989-a29; C24, 27, 31, 35, 39, §**7600;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.2]

89 Acts, ch 126, §2

CS89, §468.271

Referred to in §468.305

468.272 Examination and report.

The commissioners thus appointed shall examine the application and make an inspection of all the lands embraced in the proposed district and shall determine what improvements in the way of levees, ditches, drains, settling basins, or change of natural watercourse are necessary for the drainage of the lands described in the petition. Such commissioners, including the engineer, shall file a detailed report of their examination and their findings and file a duplicate thereof in the office of the auditor of each of said counties.

[S13, §1989-a29; C24, 27, 31, 35, 39, §**7601;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.3]

89 Acts, ch 126, §2

CS89, §468.272

468.273 Duty of engineer.

In addition to the report of the commissioners as a whole, the engineer so appointed shall perform the same duties and in the same manner required of the engineer by subchapter I, parts 1 through 5 when the proposed district is located wholly within one county, and the engineer's surveys, plats, profiles, field notes, and reports of the engineer's surveys shall be made and filed in duplicate in each county.

[S13, §1989-a29; C24, 27, 31, 35, 39, §**7602;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.4]

89 Acts, ch 126, §2

CS89, §468.273

468.274 Notice.

Immediately upon the filing of the report of the commissioners and the engineer, if the same recommends the establishment of such district, notice shall be given by the auditor of each county to the owners of all the lots and tracts of land in the auditor's own county respectively embraced within such district as recommended by the commissioners as shown by the transfer books in the office of the auditor of each of said counties, and also to the persons in actual occupancy of all the lots or tracts of land in such district, and also to each lienholder or encumbrancer of any of such lots or tracts as shown by the records of the respective counties.

[S13, §1989-a29; C24, 27, 31, 35, 39, §**7603;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.5]

89 Acts, ch 126, §2

CS89, §468.274

468.275 Contents of notice — service.

Such notice shall state the time and place, when and where the boards of the several counties will meet in joint session for the consideration of said petition and the report of the commissioners and engineer thereon, and shall in other respects be the same and served in the same time and manner as required when the district is wholly within one county, except that the auditor of each county shall give notice only to the owners, occupants, encumbrancers, and lienholders of the lots and tracts of land embraced within the proposed district in the auditor's own county as shown by the records of such county.

[S13, §1989-a29; C24, 27, 31, 35, 39, §**7604;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.6]

89 Acts, ch 126, §2

CS89, §468.275

[P] Notice and service, §468.14 et seq.

468.276 Claims for damages — filing — waiver.

Any person filing objections or claiming damages or compensation on account of the construction of such improvement shall file the same in writing in the office of the auditor of the county in which the person's land is situated, at or before the time set for hearing. The person may, however, file it at the time and place of hearing. If the person shall fail to file such claim at the time specified the person shall be held to have waived the person's right thereto, but claims for land taken for right-of-way for any open ditch or for settling basins need not be filed.

[S13, §1989-a30; C24, 27, 31, 35, 39, §**7605;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.7]

89 Acts, ch 126, §2

CS89, §468.276

468.277 Organization and procedure — adjournments.

At the time set for hearing such petition, the boards of the several counties shall meet at the place designated in said notice. They shall organize by electing a chairperson and a secretary, and when deemed advisable may adjourn to meet at the call of such chairperson at such time and place as the chairperson may designate, or may adjourn to a time and place fixed by said joint boards. They shall sit jointly in considering the petition, the report and the recommendations of the engineer, in the same manner as if the district were wholly within one county.

[S13, §1989-a31; C24, 27, 31, 35, 39, §**7606;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.8]

89 Acts, ch 126, §2

CS89, §468.277

468.278 Tentative adoption of plans.

The said boards by their joint action may dismiss the petition and refuse to establish such district, or they may approve and tentatively adopt the plans and recommendations of the engineer for the said district.

[C24, 27, 31, 35, 39, §**7607;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.9]
89 Acts, ch 126, §2
CS89, §468.278

468.279 Appraisers.

If the said boards shall adopt a tentative plan for the district, the board of each county shall select an appraiser and the several boards by joint action shall employ an engineer, and the said appraisers and engineer shall constitute the appraisers to appraise the damages and value of all right-of-way required for open ditches and of all lands required for settling basins.

[S13, §1989-a31; C24, 27, 31, 35, 39, §**7608;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.10]
89 Acts, ch 126, §2
CS89, §468.279

468.280 Duty of appraisers — procedure.

The appraisers shall proceed in the same manner and make return of their findings and appraisement the same as when the district is wholly within one county, except that a duplicate thereof shall be filed in the auditor's office of each of the several counties. After the filing of the report of the appraisers, all further proceedings shall be the same as where the district is wholly within one county, except as otherwise provided.

[S13, §1989-a31; C24, 27, 31, 35, 39, §**7609;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.11]
89 Acts, ch 126, §2
CS89, §468.280
[P] Procedure, §468.24 et seq.

468.281 Meetings of joint boards.

The board of supervisors of any county in which a petition for the establishment of a levee or drainage district to extend into or through two or more counties is on file, may meet with the board or boards of any other county or counties in which such petition is on file, for the purpose of acting jointly with such other board or boards in reference to said petition or any business relating to such district. Any such joint meetings held in either of the counties in which such petition is on file shall constitute a valid and legal meeting of said joint boards for the transaction of any business pertaining to said petition or to the business of such district.

[S13, §1989-a37; C24, 27, 31, 35, 39, §**7610;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.12]
89 Acts, ch 126, §2
CS89, §468.281

468.282 Equalizing voting power.

When the boards are of unequal membership, for the purpose of equalizing their voting power each member of the smallest board shall cast a full vote and each member of a larger board shall cast such fractional part of a vote as results from dividing the smallest number by such larger number.

[S13, §1989-a29; C24, 27, 31, 35, 39, §**7611;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.13]
89 Acts, ch 126, §2
CS89, §468.282

468.283 Commissioners to classify and assess.

If the boards of the several counties acting jointly shall establish the district, they shall appoint a commission consisting of one from each county, and in addition thereto a competent

engineer who shall within twenty days begin to inspect the premises and classify the lands in said district fixing the percentages and assessments of benefits and the apportionment of costs and expenses and shall complete said work within the time fixed by the boards. The qualifications of said commissioners, their classification of lands, fixing percentages and assessments of benefits and apportionment of costs and the report thereof in all details shall be governed in all respects by the provisions of subchapter I, parts 1 through 5, for districts wholly within one county.

[S13, §1989-a32; C24, 27, 31, 35, 39, §**7612;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.14]

89 Acts, ch 126, §2

CS89, §468.283

468.284 Notice and service thereof — objections.

Upon the filing of the report of the commissioners to classify lands, fix and assess benefits and apportion costs and expenses, the auditors of the several counties, acting jointly, shall cause notice to be served upon all interested parties of the time when and the place where the boards will meet and consider such report and make a final assessment of benefits and apportionment of costs, which notice shall be the same and served for the time and in the manner and all proceedings thereon shall be the same as provided in subchapter I, parts 1 through 5, in districts wholly within one county, except publication of notice as provided in section 468.15 shall be in each of the counties into which the district extends, and also except that said notice to be published in each of the several counties shall contain only the names of the owners of each tract of land or lot in the district located within the respective county in which said notice is to be published and the total amount of all proposed assessments on the lands located in each of the other counties into which the district extends, and except further that the objections not filed prior to the date of the hearing shall be filed with the boards at the time and place of such hearing.

[S13, §1989-a32; C24, 27, 31, 35, 39, §**7613;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.15]

89 Acts, ch 126, §2

CS89, §468.284

468.285 Levies — certificates and bonds.

After the amount to be assessed and levied against the several tracts of land shall have been finally determined, the several boards, acting separately, and within their own counties, shall levy and collect the taxes apportioned and levied in their respective counties. They may issue warrants, improvement certificates, or bonds for the payment of the cost of such improvement within their respective counties, with the same right of landowners to pay without interest or in installments all as provided where the district is wholly within one county.

[S13, §1989-a32; C24, 27, 31, 35, 39, §**7614;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.16]

89 Acts, ch 126, §2

CS89, §468.285

Referred to in §468.286

[P] Payment, §468.56 et seq.

468.286 Bonds or proceeds made available.

When drainage bonds are to be issued under the provisions of section 468.285 they shall be issued at such time that they or the proceeds thereof shall be available for the use of the district at a date not later than ninety days after the actual commencement of the work on the improvement as provided in relation to districts wholly within one county.

[C24, 27, 31, 35, 39, §**7615;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.17]

89 Acts, ch 126, §2

CS89, §468.286

468.287 Supervising engineer.

At the time of finally establishing the district, the boards of the several counties, acting jointly, shall employ a competent engineer to have charge and supervision of the construction of the improvement and they shall fix the engineer's compensation and the engineer shall, before entering upon said work, give a bond running to the several counties for the use and benefit of the district in the same amounts and of like tenor and effect as is provided in districts wholly within one county. A duplicate of such bond shall be filed with the auditor of each of said counties.

[S13, §1989-a34; C24, 27, 31, 35, 39, §**7616;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.18]

89 Acts, ch 126, §2

CS89, §468.287

[P] Bond, §468.33

468.288 Duty of engineer.

The duties of the supervising engineer shall be the same in all respects as is provided by subchapter I, parts 1 through 5, for districts wholly within one county.

[S13, §1989-a34; C24, 27, 31, 35, 39, §**7617;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.19]

89 Acts, ch 126, §2

CS89, §468.288

468.289 Notice of letting work — applicable procedure.

If the boards, acting jointly, shall establish such district, the auditors of the several counties shall immediately thereafter, acting jointly, cause notice to be given of the time and place of the meeting of the boards for letting contracts for the construction of the improvement. The notices, bids, bonds, and all other proceedings in relation to letting contracts shall be the same as provided where the district is wholly within one county, but duplicates of contractors' bonds shall be filed with the auditor of each county.

[S13, §1989-a33; C24, 27, 31, 35, 39, §**7618;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.20]

89 Acts, ch 126, §2

CS89, §468.289

468.290 Contracts.

All contracts made for engineering work and the work of constructing improvements of an intercounty district shall be made by written contract executed by the contractor and such person as may be authorized by the boards of the several counties and by joint resolution and shall specify the work to be done, the amount of compensation therefor and the times and manner of payment, all as provided in relation to districts wholly within one county.

[S13, §1989-a33; C24, 27, 31, 35, 39, §**7619;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.21]

89 Acts, ch 126, §2

CS89, §468.290

468.291 Monthly estimate — payment.

The engineer in charge of the work shall furnish the contractor a monthly statement estimating the amount of work done on each section and in each county. A duplicate copy of the statement shall be filed with the auditor of each county where the work is done. When the auditor files the statement, the auditor shall draw a warrant for the contractor or give the contractor an order directing the treasurer to deliver to the contractor improvement certificates or drainage bonds, as the case may be, in favor of the contractor for ninety percent of the amount due from the auditor's county. Drainage warrants, bonds, or

improvement certificates when so issued shall be in such amounts as the auditor determines, but shall not be in amounts in excess of one thousand dollars.

[S13, §1989-a34; C24, 27, 31, 35, 39, §**7620;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.22]

89 Acts, ch 126, §2

CS89, §468.291

94 Acts, ch 1051, §12

468.292 Final settlement.

When the work to be done on any contract is completed to the satisfaction of the supervising engineer the engineer shall so report and certify to the boards of the several counties, and the auditors of the county shall fix a day to consider said report, and all the provisions shall apply in relation to objections to said report and the approval of the same and the completion of any unfinished or abandoned work as is provided in subchapter I, parts 1 through 5, relating to completion of work and final settlement in districts wholly within one county, except that, when the completed work is accepted by the joint action of the boards of supervisors of the several counties into which the district extends such acceptance shall be certified to the auditor of each county who shall draw a warrant for the contractor or give the contractor an order directing the treasurer to deliver to the contractor improvement certificates or drainage bonds, as the case may be, for the balance due from the portion of the district in such county.

[S13, §1989-a34; C24, 27, 31, 35, 39, §**7621;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.23]

89 Acts, ch 126, §2

CS89, §468.292

Referred to in §468.299

468.293 Failure of board to act.

When the establishment of a district, extending into two or more counties, is petitioned for as hereinbefore provided and one or more of such boards fails to take action thereon, the petitioners may cause notice in writing to be served upon the chairperson of each board demanding that action be taken upon the petition within twenty days from and after the service of such notice.

[S13, §1989-a36; C24, 27, 31, 35, 39, §**7622;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.24]

89 Acts, ch 126, §2

CS89, §468.293

468.294 Transfer to district court.

If such boards shall fail to take action thereon within the time named, or fail to agree, the petitioners may cause such proceedings to be transferred to the district court of any of the counties into which such proposed district extends by serving notice upon the auditors of the several counties within ten days after the expiration of said twenty days' notice, or after the failure of such boards to agree.

[S13, §1989-a36; C24, 27, 31, 35, 39, §**7623;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.25]

89 Acts, ch 126, §2

CS89, §468.294

468.295 Transcript, docket and trial.

Within thirty days after completion of notice, the auditor shall, acting jointly, prepare and certify to the clerk of the district court a full and complete transcript of all proceedings had

in such case. The clerk of the district court shall thereupon docket the case and same shall be triable in equity at any time after the expiration of twenty days thereafter.

[S13, §1989-a36; C24, 27, 31, 35, 39, §**7624;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.26]

89 Acts, ch 126, §2

CS89, §468.295

468.296 Decree.

The court shall enter judgment and decree dismissing the case or establishing such district and may by proper orders and writs enforce the same.

[S13, §1989-a36; C24, 27, 31, 35, 39, §**7625;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.27]

89 Acts, ch 126, §2

CS89, §468.296

468.297 Law applicable.

Except as otherwise stipulated in this part the provisions and procedure set forth in subchapter I, parts 1 through 5, shall govern and apply to the formation, establishment, and conduct of every levee or drainage district extending into two or more counties, the petition therefor, the giving or publication or service of notice therein, the appointment and duties of all officers or appraisers or commissioners, the making or filing of waivers, reports, plats, profiles, recommendations, notices, contracts, and papers, the classification and apportionment and assessment of lands and all other property, the taking and hearing of appeals, the issuance and delivery of warrants, bonds and assessment certificates, the payment of taxes and assessments, the making of improvements, ditches, drains, settling basins, changes, enlargements, extensions, and repairs, the inclusion of lands, and the making or performance of every other matter or thing whatsoever relevant to or in any wise connected with such joint drainage or levee district, and the rights, privileges, and duties of all persons, landowners, officers, appellants, and courts.

[S13, §1989-a37; C24, 27, 31, 35, 39, §**7626;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §457.28]

89 Acts, ch 126, §2

CS89, §468.297

468.298 Records of intercounty districts.

A record of all proceedings of an intercounty levee or drainage district shall be maintained by the auditor of each county in which a portion of the district lies, as provided by sections 468.172 and 468.173, but the records in the office of the auditor of the county having the largest acreage in the district shall be the official records of said district.

[C71, 73, 75, 77, 79, 81, §457.29]

89 Acts, ch 126, §2

CS89, §468.298

468.299 County with largest acreage to keep funds.

When an intercounty district has been finally established and original construction completed and final settlement made with the contractor, as provided by section 468.292, the treasurer of the county having the largest acreage of the district shall be the depository for all funds of the district and the treasurer of the other counties in which the district is situated shall periodically, at least annually, pay over all district funds received within said period to the treasurer of the county with the largest acreage, except that funds payable on improvement certificates or bonds shall be disbursed to the holders of the certificates or bonds by the treasurer of the county in which the land encumbered is located.

[C71, 73, 75, 77, 79, 81, §457.30]

89 Acts, ch 126, §2

CS89, §468.299

468.300 through 468.304 Reserved.

PART 2

CONVERTING INTRACOUNTY DISTRICTS INTO INTERCOUNTY DISTRICT

Referred to in §468.345, 468.397

468.305 Intracounty districts converted into intercounty district.

Whenever one or more drainage districts in one county outlet into a ditch, drain, or natural watercourse, which ditch, drain, or natural watercourse is the common carrying outlet for one or more drainage districts in another county, the boards of supervisors of such counties acting jointly may by resolution, and on petition of the trustees of any one of such districts or one or more landowners therein, in either case such petition to be accompanied by a bond as provided in section 468.270, must initiate proceedings for the establishment of an intercounty drainage district by appointing commissioners as provided in section 468.271 and by requiring a bond as provided in section 468.270 and by proceeding as provided by subchapter II, part 1, and all powers, duties, limitations, and provisions of this part and subchapter II, part 1, shall be applicable thereto.

[C27, 31, 35, §7626-a1; C39, §**7626.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §458.1]
89 Acts, ch 126, §2
CS89, §468.305

468.306 Benefited land only included.

Neither any land nor any previously organized drainage district shall be included within, or assessed for, the proposed new intercounty district unless such land or unless such previously organized district shall receive special benefits from the improvements in the proposed new intercounty district.

[C27, 31, 35, §7626-a2; C39, §**7626.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §458.2]
89 Acts, ch 126, §2
CS89, §468.306

468.307 Appeal by landowner.

Any landowner affected by the establishment of the new intercounty district may appeal to the district court of the county where the owner's land lies from the action of the joint boards in establishing the new district or in including the owner's land within it.

[C27, 31, 35, §7626-a3; C39, §**7626.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §458.3]
89 Acts, ch 126, §2
CS89, §468.307

468.308 Procedure on appeal.

The procedure for taking such appeal and for hearing and determining it shall be that provided for similar appeals in subchapter I, parts 1 through 5.

[C27, 31, 35, §7626-a4; C39, §**7626.4;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §458.4]
89 Acts, ch 126, §2
CS89, §468.308

468.309 Appeal by trustees or boards.

Trustees or boards of supervisors having charge of any previously organized district which is proposed to be included (either in whole or in part) within the new intercounty district may, in the same manner and under the same procedure appeal to the district court from the action of the joint boards in establishing the new district or in including therein the previously organized district or any part thereof.

[C27, 31, 35, §7626-a5; C39, §**7626.5;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §458.5]
89 Acts, ch 126, §2
CS89, §468.309

468.310 through 468.314 Reserved.

PART 3

DRAINAGE OR LEVEE DISTRICTS EMBRACING PART OR WHOLE OF CITY

Referred to in §331.502, 468.345, 468.397, 468.506

468.315 Authority to include city.

A county board of supervisors has the same power to establish a drainage or levee district that includes the whole or any part of a city as the county board does to establish a district located wholly outside a city, including providing for the assessment of damages and benefits within a city. However, a county board of supervisors shall not do any of the following:

1. Establish a drainage or levee district located wholly within the corporate limits of a city, unless the city consents by resolution adopted by its city council.
2. Establish a district for sanitary sewer purposes.

[S13, §1989-a38; C24, 27, 31, 35, 39, §**7627;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.1]

89 Acts, ch 126, §2

CS89, §468.315

2004 Acts, ch 1075, §1, 2

468.316 Inclusion of city — notice.

Notice of the filing of the petition for such district and the time of hearing thereon, shall set forth the boundaries of the territory included within such city and directed to the city clerk and the owners and lienholders of the property within such boundaries without naming individuals, to be served in the same manner as notices where the district is wholly outside of such city.

[S13, §1989-a38; C24, 27, 31, 35, 39, §**7628;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.2]

89 Acts, ch 126, §2

CS89, §468.316

[P] Service of notice, §468.15 et seq.

468.317 Assessments — notice.

When the streets, alleys, public ways, or parks or lots or parcels including railroad rights-of-way of any city, or city under special charter, so included within a levee or drainage district, will be beneficially affected by the construction of any improvement in such district, it shall be the duty of the commissioners appointed to classify and assess benefits to estimate and return in their report the percentage and assessment of benefits to such streets, alleys, public ways, and parks, or lots or parcels including railroad rights-of-way and notice thereof shall be served upon the clerk of such city, irrespective of the form of government, and upon owners of lots, parcels, and railroad rights-of-way so assessed.

[S13, §1989-a38; C24, 27, 31, 35, 39, §**7629;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.3]

89 Acts, ch 126, §2

CS89, §468.317

468.318 Objections — appeal.

The council or clerk of such city or individual owners may file objections to such percentage and assessment of benefits in the time and manner provided in case of landowners outside

such city, and they shall have the same right to appeal from the finding of the board with reference to such assessment.

[S13, §1989-a38; C24, 27, 31, 35, 39, §**7630;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.4]

89 Acts, ch 126, §2

CS89, §468.318

[P] Objections, §468.45; appeals, §468.83 et seq.

468.319 Assessments — interest.

Such assessment as finally made shall draw interest at the same rate and from the same time as assessment against lands.

[S13, §1989-a38; C24, 27, 31, 35, 39, §**7631;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.5]

89 Acts, ch 126, §2

CS89, §468.319

468.320 Bonds, certificates and waivers.

The board of supervisors and the city council shall have the same power in reference to issuing improvement certificates or drainage bonds and executing waivers on account of such assessment for benefits to streets, alleys, public ways, parks, and other lands as is herein conferred upon the board of supervisors in reference to assessment for benefits to highways.

[S13, §1989-a38; C24, 27, 31, 35, 39, §**7632;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.6]

89 Acts, ch 126, §2

CS89, §468.320

[P] Certificates and bonds, §468.70 et seq.

468.321 Funding bonds.

Such cities may issue their funding bonds for the purpose of securing money to pay any assessment against it as provided by law.

[C24, 27, 31, 35, 39, §**7633;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.7]

89 Acts, ch 126, §2

CS89, §468.321

468.322 Jurisdiction relinquished.

If the board of supervisors of any county at any time finds that twenty-five percent or more of the total area of any established drainage district is located within the corporate limits of any city, that the district's drains are wholly or partially constructed of sewer tile, and that the district's drain or drains are needed or being used by the city for storm sewer or drainage purposes, the board may by resolution transfer to the city control of the entire drainage district, including the portion outside the corporate limits of the city.

[C24, 27, 31, 35, 39, §**7634;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.8]

89 Acts, ch 126, §2

CS89, §468.322

Referred to in §468.323

468.323 Request for relinquishment.

When a county board of supervisors elects to transfer control of a drainage district to a city, as provided in section 468.322, the resolution effecting the transfer shall state a time not less than thirty nor more than ninety days after adoption of the resolution when the transfer of control shall take effect. The resolution shall be certified to the governing body of the city and a copy thereof filed by the county auditor, who shall spread the same upon the records of the drainage district.

[C24, 27, 31, 35, 39, §**7635;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.9]

89 Acts, ch 126, §2

CS89, §468.323

Referred to in §468.324

468.324 Duty to accept.

It shall be the duty of the governing body of any city to accept control of and thereafter to administer a drainage district properly transferred to the city, commencing on the date specified in the resolution of the county board of supervisors certified to the governing body as provided in section 468.323, or at such later date as may be agreed to by the county board upon request of the governing body.

[C24, 27, 31, 35, 39, §**7636;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.10]
89 Acts, ch 126, §2
CS89, §468.324

468.325 Jurisdiction of municipality.

After the drainage district has been taken over by the city, it shall have complete control thereof, and may use the same for any purpose that said city through its city council deems proper and necessary for the advancement of the city or its health or welfare, and the city shall be responsible for the maintenance and upkeep of said drainage district only from and after its relinquishment by the board of supervisors to the city.

[C24, 27, 31, 35, 39, §**7637;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.11]
89 Acts, ch 126, §2
CS89, §468.325

468.326 City council to control district.

The council of any city acting under the provisions of this part shall have control, supervision and management of the district, and shall be vested with all of the powers which are now or may hereafter be conferred on the board of supervisors for the control, supervision and management of drainage districts under the laws of this state within the said district unless otherwise specifically provided.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §459.12]
89 Acts, ch 126, §2
CS89, §468.326

468.327 Trustee control.

A district formed pursuant to this part, under the control of a city council, may be placed under the control and management of a board of trustees as provided in subchapter III of this chapter. Each trustee shall be a citizen of the United States not less than eighteen years of age and a bona fide owner of benefited land in the district for which the trustee is elected. If the owner is a family farm corporation as defined by section 9H.1, subsection 9, a business corporation organized and existing under chapter 490 or 491, or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

84 Acts, ch 1040, §1
C85, §459.13
89 Acts, ch 126, §2
CS89, §468.327
90 Acts, ch 1205, §14; 93 Acts, ch 126, §4

468.328 through 468.334 Reserved.

PART 4

HIGHWAY DRAINAGE DISTRICTS

Referred to in §468.3, 468.397

468.335 Establishment.

Whenever, in the opinion of the board of supervisors, it is necessary to drain any part of any public highway under its jurisdiction, and any land abutting upon or adjacent thereto, it

may proceed without petition or bond to establish a highway drainage district by proceeding in all other respects as provided in subchapter I, parts 1 through 5.

[SS15, §1989-b, -b2 – b6, -b8, -b12, -b13; C24, 27, 31, 35, 39, §**7638;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.1]

89 Acts, ch 126, §2

CS89, §468.335

468.336 Powers.

Such district, when established, shall have the powers granted to drainage and levee districts, and all parties interested shall have the same rights so far as applicable.

[SS15, §1989-b, -b2 – b6, -b8, -b12, -b13; C24, 27, 31, 35, 39, §**7639;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.2]

89 Acts, ch 126, §2

CS89, §468.336

468.337 Initiation without petition.

When the board of supervisors determines on its own action to proceed to the establishment of a highway drainage district, it shall do so by the adoption of a resolution of necessity to be placed upon its records, in which it shall describe in a general way the portion of any highway or highways to be included in such district, together with the description of abutting or adjacent land and railroad rights-of-way to be included in such district and made subject to assessment for such improvement.

[SS15, §1989-b; C24, 27, 31, 35, 39, §**7640;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.3]

89 Acts, ch 126, §2

CS89, §468.337

468.338 Engineer.

The board shall appoint a competent engineer for the district. If the county engineer is appointed, the engineer shall serve without additional compensation. In no case shall the county engineer act as a member of the assessment commission in a drainage district provided for in this part.

[SS15, §1989-b, -b11; C24, 27, 31, 35, 39, §**7641;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.4]

89 Acts, ch 126, §2

CS89, §468.338

468.339 Survey and report.

The engineer shall make a survey of the proposed district and report the same to the board, being governed in all respects as provided by sections 468.11 and 468.12 and designate particularly any portion of the secondary road system, or the primary road system, or any portion of either or both of said systems, as well as all lands adjoining and adjacent thereto, including lands and rights-of-way of railway companies which in the engineer's judgment will be benefited by drainage of highways in such district, and which should be embraced within the boundaries of such district.

[SS15, §1989-b1; C24, 27, 31, 35, 39, §**7642;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.5]

89 Acts, ch 126, §2

CS89, §468.339

468.340 Assessment — report.

The commission for assessment of benefits and classification of the property assessed shall determine and report:

1. The separate amount which shall be paid by the county on account of the secondary road system.

2. The separate amount which shall be paid by the state on account of the primary road system.

3. The amounts which shall be assessed against the right-of-way or other real estate of each railway company within such district.

4. The amounts which shall be assessed against each forty-acre tract or less within such district.

[SS15, §1989-b5; C24, 27, 31, 35, 39, §**7643;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.6]

89 Acts, ch 126, §2

CS89, §468.340

468.341 Advanced payments.

The board on construction of the improvement may advance that portion to be collected by special assessment, the amount so advanced to be replaced as the first special assessments are collected. The board may in lieu of making advancements, issue warrants to be known as "Drainage Warrants", the warrants to bear interest at a rate not exceeding that permitted by chapter 74A payable annually from the date of issue and to be paid out of the special assessments levied, when they are collected.

[SS15, §1989-b7; C24, 27, 31, 35, 39, §**7644;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.7]

83 Acts, ch 123, §186, 209; 89 Acts, ch 126, §2

CS89, §468.341

Referred to in §331.429

468.342 Payment from road funds.

The amount fixed by the final order of the board of supervisors to be paid:

1. On account of the primary road system, shall be payable by the state department of transportation on due certification of the amount by the county treasurer to the state department of transportation out of the primary road fund.

2. On account of the secondary road system, is payable from county funds.

[SS15, §1989-b5; C24, 27, 31, 35, 39, §**7645;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.8]

83 Acts, ch 123, §187, 209; 89 Acts, ch 126, §2

CS89, §468.342

Referred to in §331.429

468.343 Dismissal — costs.

If such proceedings are dismissed or said improvement abandoned, all costs of such proceedings shall be paid out of the fund of the road system for the benefit of which said proceeding was initiated.

[SS15, §1989-b10; C24, 27, 31, 35, 39, §**7646;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.9]

89 Acts, ch 126, §2

CS89, §468.343

468.344 Condemnation of right-of-way.

When in the judgment of the board of supervisors, it is inadvisable to establish a drainage district but necessary to acquire right-of-way through private lands for the construction of ditches or drains as outlets for the drainage of highways, the board of supervisors may cause such right-of-way to be condemned by proceedings in the manner required for the exercise of the right of eminent domain as for works of internal improvement, except that no attorney

fee shall be taxed, and pay the costs and expense of such condemnation from either or both of said secondary road funds.

[S13, §1989-a43; C24, 27, 31, 35, 39, §**7647;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.10]

89 Acts, ch 126, §2

CS89, §468.344

[P] Condemnation procedure, chapter 6B

468.345 Laws applicable.

All proceedings for the construction and maintenance of highway drainage districts except as provided for in this chapter shall be as provided for in subchapter I, parts 1 through 5, and subchapter II, parts 1 through 3.

[C24, 27, 31, 35, 39, §**7648;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.11]

83 Acts, ch 101, §98; 89 Acts, ch 126, §2

CS89, §468.345

468.346 Removal of trees from highway.

When the roots of trees located within a highway obstruct the ditches or tile drains of such highway, the board of supervisors shall remove such trees from highways, except shade or ornamental trees adjacent to a dwelling house or other farm buildings or feedlots, or any tree or trees for windbreaks upon cultivated lands consisting of sandy or other light soils.

[C24, 27, 31, 35, 39, §**7649;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.12]

89 Acts, ch 126, §2

CS89, §468.346

468.347 Trees outside of highways.

When the roots of trees and hedges growing outside a highway obstruct the ditches or tile drains of any highway, the board of supervisors may acquire the right to destroy such trees in the manner provided for taking private property for public use. Ornamental trees adjacent to any dwelling, orchard trees and trees used as windbreaks for a dwelling house, outbuildings, barn or feedlots, shall be exempt from the provisions of this section.

[C24, 27, 31, 35, 39, §**7650;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §460.13]

89 Acts, ch 126, §2

CS89, §468.347

[P] Condemnation procedure, chapter 6B

[P] Similar provision, §468.139

468.348 through 468.354 Reserved.

PART 5

DRAINAGE AND LEVEE DISTRICTS WITH PUMPING STATIONS

Referred to in §331.552, 350.4, 468.3, 468.397

468.355 Authorization.

The board of supervisors of any county or counties in which a drainage or levee district has been organized as by law provided, may establish and maintain a pumping station or stations, when and where the same may be necessary to secure a proper outlet for the drainage of the land comprising the district or any portion thereof, and the cost of construction and maintenance of said pumping station or stations shall be levied upon and collected from the

lands in the district benefited by such pumping station or stations, in the same manner as provided for in the construction and maintenance of said districts.

[S13, §1989-a49, -a52; C24, 27, 31, 35, 39, §**7651;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.1]

89 Acts, ch 126, §2

CS89, §468.355

468.356 Petition — procedure — emergency pumping station.

Such pumping station shall not be established or maintained unless a petition therefor shall be presented to the board signed by not less than one-third of the owners of lands benefited thereby. The lands benefited by such pumping station shall be determined by the board on said petition and report of the engineer, and such other evidence as it may hear. No additional land shall be taken into any such drainage district after the improvements therein have been substantially completed, unless one-third of the owners of the land proposed to be annexed have petitioned therefor or consented in writing thereto.

However, the board of supervisors may install a temporary portable pumping station to remove flood waters in an emergency. The board of supervisors shall levy and collect the cost of the purchase, operation and maintenance of the pumping station from the lands in the district benefited by the pumping station in the same manner as provided for in the construction and maintenance of a drainage or levee district. For the purpose of this paragraph an emergency occurs when ponded or standing water does not freely flow to the outlet ditch and the capacity of the outlet ditch is not fully used.

[S13, §1989-a49; C24, 27, 31, 35, 39, §**7652;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.2]

85 Acts, ch 166, §1; 89 Acts, ch 126, §2

CS89, §468.356

468.357 Additional pumping station.

After the establishment of a drainage district, including a pumping plant, and before the completion of the improvement therein, the board or boards may, if deemed necessary to fully accomplish the purposes of said improvement, by resolution authorize the establishment and maintenance of such additional pumping station or stations as the engineer may recommend, and if a petition is filed by one-third of the owners of land within such district asking the establishment of such pumping plant or plants, the board or boards must direct the engineer to investigate the advisability of the establishment thereof and upon the report of said engineer the board or boards shall determine whether such additional pumping plant or plants shall be established.

[C24, 27, 31, 35, 39, §**7653;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.3]

89 Acts, ch 126, §2

CS89, §468.357

468.358 Transfer of pumps.

If the board or boards determine that additional pumping plant or plants shall be established and maintained, a pump or pumps may be removed from any pumping station already established and may be installed in any such additional plant, if such removal can be made without injuring the efficient operation of the plant from which removed.

[C24, 27, 31, 35, 39, §**7654;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.4]

89 Acts, ch 126, §2

CS89, §468.358

468.359 Costs.

1. The cost of the establishment of such additional pumping plant or plants shall be paid in the same manner and upon the same basis as is provided for the cost of the original improvement.

2. The board of supervisors or the board of trustees, as the case may be, where the district has been established and the original improvement constructed, may proceed with the further

improvement of the original project in the manner provided in section 468.126, provided, however, that the cost of such further improvement does not exceed twenty-five percent of the sum of the original cost to the district and the cost of subsequent improvements, including all federal contributions.

3. For the purpose of this section the word *"improvement"* shall include the construction, reconstruction, enlargement and relocation of levees and acquisition of rights-of-way therefor.

[C24, 27, 31, 35, 39, §**7655;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.5]
89 Acts, ch 126, §2
CS89, §468.359
2011 Acts, ch 25, §124

468.360 Dividing districts.

When a drainage district has been created and more than one pumping plant is established therein, the board or boards of supervisors may, and upon petition of one-third of the owners of land within said district shall, appoint an engineer to investigate the advisability of dividing said district into two or more districts so as to include at least one pumping plant in each of such districts.

[C24, 27, 31, 35, 39, §**7656;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.6]
89 Acts, ch 126, §2
CS89, §468.360

468.361 Notice — publication.

If the engineer recommends such division the board of supervisors shall fix a time for hearing upon the question of such division and shall publish notice directed to all whom it may concern of the time and place of such hearing, for the time and in the manner as is required for the publication of notice of the establishment of said district, except that said notice need not name the owners and lienholders.

[C24, 27, 31, 35, 39, §**7657;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.7]
89 Acts, ch 126, §2
CS89, §468.361

468.362 Hearing — jurisdiction of divided districts.

At the time fixed, the board shall determine the advisability of such division and shall make such order with reference thereto as shall be deemed proper, having consideration for the interests of all concerned. If such division is made, the board or boards having jurisdiction of the original district shall retain jurisdiction of the new districts created by such division for the purpose of collecting assessments theretofore made and making such additional assessments as are necessary to pay the obligations theretofore contracted. For all other purposes, each division shall be under the jurisdiction of the board or boards of supervisors which would have had jurisdiction thereof if originally established as an independent district.

[C24, 27, 31, 35, 39, §**7658;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.8]
89 Acts, ch 126, §2
CS89, §468.362

468.363 Division in other cases.

After a levee or drainage district operating a pumping plant shall have been established and the improvement constructed and accepted, if it shall become apparent that the lands can be more effectually drained, managed, or controlled by a division thereof, then the said board or boards, or trustees, may, and if the district is divided by a stream, they shall, divide the district.

[C24, 27, 31, 35, 39, §**7659;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.9]
89 Acts, ch 126, §2
CS89, §468.363

468.364 Assessments not affected — maintenance tax.

Each district after the division shall be conducted as though established originally as a district. Nothing herein shall affect the legality or collection of any assessments levied before the division; but the maintenance tax, if any, shall be divided in proportion to the amount paid in by each district.

[C24, 27, 31, 35, 39, §**7660;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.10]
89 Acts, ch 126, §2
CS89, §468.364

468.365 Election and apportionment of trustees.

If said district, before the division was made, was under the control and management of trustees, then each trustee shall continue to serve in the district in which the trustee is situated, and other trustees shall be elected in each new district. The election for said new trustees shall be called by the old board of trustees in each district within ten days after said division is made and shall be conducted as provided for the election of trustees.

[C24, 27, 31, 35, 39, §**7661;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.11]
89 Acts, ch 126, §2
CS89, §468.365
[P] Election of trustees and management of districts, §468.500 – 468.537

468.366 Settling basin — condemnation.

If, before a district operating a pumping plant is completed and accepted, it appears that portions of the lands within said district are wet or nonproductive by reason of the floods or overflow waters from one or more streams running into, through, or along said district and that said district or some other district of which such district shall have formed a part, shall have provided a settling basin to care for the said floods and overflow waters of said stream or watercourse, but no channel to said settling basin has been provided, said board or boards are hereby empowered to lease, buy, or condemn the necessary lands within or without the district for such channel. Proceedings to condemn shall be as provided in chapter 6B for the exercise of the right of eminent domain.

[C24, 27, 31, 35, 39, §**7662;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.12]
89 Acts, ch 126, §2
CS89, §468.366
2006 Acts, 1st Ex, ch 1001, §46, 49

468.367 Funding bonds.

When the owners of ten percent of the land in a drainage or levee district having and operating a pumping station shall petition the board of supervisors to extend the time of payment of the taxes assessed against the lands within said district for a period not exceeding twenty years, under such rules and regulations as said board may direct, the interest on such assessments to be paid annually the same as other taxes levied against the property, not less than one-twentieth of the principal of said extended tax to be paid each year until the entire tax is paid, and the lien of such tax to continue until fully paid, the board of supervisors may settle, adjust, renew, or extend the legal indebtedness of such district as shown by the assessments levied against the lands therein whether evidenced by certificates, warrants, bonds, or judgments by refunding all such indebtedness and issuing coupon bonds therefor when such indebtedness amounts to one thousand dollars or upwards, but for no other purpose.

[C24, 27, 31, 35, 39, §**7663;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.13]
89 Acts, ch 126, §2
CS89, §468.367
Referred to in §468.80
[P] Refunding bonds, §468.540 – 468.569

468.368 Form of bonds.

Such bonds shall be issued in sums of not less than one hundred dollars or more than one thousand dollars each, running not more than twenty years, bearing interest not exceeding

that permitted by chapter 74A, payable annually or semiannually, and shall be substantially in the form provided by law for funding bonds issued for drainage purposes.

[C24, 27, 31, 35, 39, §**7664;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.14]
89 Acts, ch 126, §2
CS89, §468.368
[P] Form of bond, §468.75

468.369 Formal execution.

Such bonds shall be numbered consecutively, signed by the chairperson of the board of supervisors, attested by the county auditor. The interest coupons attached thereto shall be executed in the same manner.

[C24, 27, 31, 35, 39, §**7665;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.15]
89 Acts, ch 126, §2
CS89, §468.369

468.370 Resolution — requisites — record.

All bonds issued under the provisions of this part shall be issued pursuant to and in conformity with a resolution adopted by the board of supervisors, which shall specify the amount authorized to be issued, the purpose for which issued, the rate of interest they shall bear and whether payable annually or semiannually, the place where the principal and interest shall be payable and when it becomes due, and such other provisions not inconsistent with law in reference thereto as the board of supervisors shall think proper, which resolution shall be entered of record upon the minutes of the proceedings of the said board and a complete copy thereof printed on the back of each bond, which resolution shall constitute a contract between the drainage district and the purchasers or holders of said bonds.

[C24, 27, 31, 35, 39, §**7666;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.16]
89 Acts, ch 126, §2
CS89, §468.370

468.371 Registration.

When bonds have been executed as aforesaid they shall be delivered to the county treasurer and the treasurer's receipt taken therefor. The county treasurer shall register the same in a book provided for that purpose, which shall show the number of each bond, its date, date of sale, amount, date of maturity, and the name and address of the purchaser, and if exchanged what evidences of debt were received therefor, which record shall at all times be open to the inspection of the owners of property within the district. The treasurer shall thereupon certify on the back of each bond as follows:

This bond duly and properly registered in my office this .....
day of ..... (month), ... (year).
.....
Treasurer of the County of
.....

[C24, 27, 31, 35, 39, §**7667;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.17]
89 Acts, ch 126, §2
CS89, §468.371
2000 Acts, ch 1058, §56

468.372 Liability of treasurer — reports.

The treasurer shall stand charged on the treasurer's official bond with all bonds so delivered to the treasurer and the proceeds thereof. The treasurer shall report under oath to the board of supervisors, at each first regular session thereof in each month, a statement of all such bonds

sold or exchanged by the treasurer since the treasurer's last report and the date of such sale or exchange and when exchanged a description of the indebtedness for which exchanged.

[C24, 27, 31, 35, 39, §**7668;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.18]
89 Acts, ch 126, §2
CS89, §468.372

468.373 Sale — application of proceeds.

The county treasurer shall, under a resolution and the direction of the said county board of supervisors, sell the bonds for cash on the best available terms or exchange them on like terms for a legal indebtedness of the said district evidenced by bonds, warrants, or judgments outstanding at the date of the passage of the resolution authorizing the issue thereof, and the proceeds shall be applied and exclusively used for the purpose for which said bonds are issued. In no case shall they be sold or exchanged for a less sum than their face value and all interest accrued at the date of sale or exchange. After registration the treasurer shall deliver said bonds to the purchaser thereof and when exchanged for indebtedness of said district shall at once cancel all warrants or bonds or secure proper credits therefor on judgments.

[C24, 27, 31, 35, 39, §**7669;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.19]
89 Acts, ch 126, §2
CS89, §468.373

468.374 Levy.

Drainage districts issuing funding or refunding bonds under this part shall levy taxes for the payment of the principal and interest thereof, where there has not been a prior levy covering same, in accordance with the provisions of the law relating to taxation.

[C24, 27, 31, 35, 39, §**7670;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.20]
89 Acts, ch 126, §2
CS89, §468.374

468.375 Scope of Act.

Refunding bonds for the purposes set out in this part may be issued to pay off and take up bonds issued in payment for drainage improvements under prior laws or to refund any part thereof. Bonds thus issued shall substantially conform to the provisions of the law relating to drainage bonds and the face amount thereof shall be limited to the amount of the unpaid assessments, with interest thereon, applicable to the payment of the bonds so taken up.

[C24, 27, 31, 35, 39, §**7671;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.21]
89 Acts, ch 126, §2
CS89, §468.375

468.376 Funds available to pay bonds.

When refunding bonds shall be issued to pay for drainage improvements under the provisions of this part, all special assessments, taxes, and sinking funds applicable to the payment of such bonds previously issued shall be applicable in the same manner and the same extent to the payment of the refunding bonds issued hereunder, and all the powers and duties to levy and collect special assessments and taxes or create liens upon property shall continue until all refunding bonds shall be paid.

The drainage district shall collect the special assessments out of which the said bonds are payable and hold the same separate and apart in trust for the payment of said refunding bonds but the provisions of this part shall not apply to assessments or bonds adjudicated to be void.

[C24, 27, 31, 35, 39, §**7672;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.22]
89 Acts, ch 126, §2
CS89, §468.376

468.377 Limitation of actions.

No action shall be brought questioning the validity of any of the bonds authorized by this part from and after three months from the time the same are ordered issued by the proper authorities.

[C24, 27, 31, 35, 39, §**7673;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.23]
89 Acts, ch 126, §2
CS89, §468.377
[P] Similar provisions, §468.562, 468.581

468.378 Bankruptcy proceedings.

All drainage districts with pumping plant and levee, which have power to incur indebtedness, through action of their own governing bodies are hereby authorized to proceed under and take advantage of all laws enacted by the Congress of the United States under the federal bankruptcy powers, which laws have for their object the relief of municipal indebtedness, including 48 Stat. 345, entitled "An Act To Amend An Act Entitled 'An Act To Establish A Uniform System Of Bankruptcy Throughout The United States', Approved July 1, 1898, And Acts Amendatory Thereof And Supplementary Thereto", approved May 24, 1934, and the officials and governing bodies of such drainage, pumping plant, and levee districts are authorized to adopt all proceedings and to do any and all acts necessary or convenient to fully avail such drainage, pumping plant, and levee districts of the provisions of such Acts of Congress.

[C35, §7673-g1; C39, §**7673.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §461.24]
89 Acts, ch 126, §2
CS89, §468.378
2006 Acts, ch 1010, §122

468.379 Part applicable to districts with pumping stations.

The provisions of this part so far as applicable shall apply to all levee districts maintaining levees for the protection of any drainage district or districts having pumping stations.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §461.25]
89 Acts, ch 126, §2
CS89, §468.379

468.380 Construction near levee prohibited.

No person, firm or corporation shall hereafter erect, alter, or maintain any building or other structure, except necessary public utility structures, or construct, alter, or maintain any ditch, or remove any earth within three hundred feet of the center line of any levee maintained by a drainage or levee district with pumping stations without first securing permission to so do from the governing board of said drainage or levee district with pumping stations. Such permission may be granted at any regular meeting thereof, and after written application is made therefor upon the form prescribed by said governing board.

[C62, 66, 71, 73, 75, 77, 79, 81, §461.26]
89 Acts, ch 126, §2
CS89, §468.380

468.381 Penalty.

Every person who shall violate any provisions of this part shall be guilty of a misdemeanor punishable by a fine of not more than one hundred dollars, and in default of payment thereof, by imprisonment in the county jail for not more than thirty days.

[C62, 66, 71, 73, 75, 77, 79, 81, §461.27]
89 Acts, ch 126, §2
CS89, §468.381

468.382 Action to restrain or abate.

In the event that any building or other structure, or any ditch is constructed, altered or maintained, or any earth removed in violation of any provisions of this part, the governing

board of said drainage or levee district with pumping stations maintaining said levee, may institute an appropriate action or proceeding to prevent such unlawful construction, alteration, or maintenance, or earth removal and to restrain, correct, or abate such violation, and may by petition duly verified, setting forth the facts, apply to the district court for an order enjoining all persons, firms or corporations from such construction, alteration, maintenance, or earth removal, until the entry of the final judgment or order.

[C62, 66, 71, 73, 75, 77, 79, 81, §461.28]
89 Acts, ch 126, §2
CS89, §468.382

468.383 Liability for damage.

In addition to all other penalties contained herein, any person, firm or corporation who shall construct, alter or maintain any building, other structure, or any ditch, or remove earth, in violation of this part, shall be liable to the drainage or levee district with pumping stations maintaining said levee, for all damage sustained by the drainage or levee district resulting from the violation, and in the event of flood, or other emergency so declared by resolution of the governing body, any building or other structure, or ditch so constructed without permission of the governing board, as required herein, and within three hundred feet of the center line of any levee, may be removed, or the ditch filled in, without prior notice thereof to the owner.

[C62, 66, 71, 73, 75, 77, 79, 81, §461.29]
89 Acts, ch 126, §2
CS89, §468.383

468.384 through 468.389 Reserved.

PART 6

DRAINAGE DISTRICTS IN CONNECTION WITH UNITED STATES LEVEES

Referred to in §331.502, 331.552, 350.4, 468.3

468.390 United States levees — cooperation of board.

In any case where the United States has built or shall build a levee along or near the bank of a navigable stream forming a part of the boundary of this state, the board of supervisors of any county through which the same may pass shall have the power to aid in procuring the right-of-way for and maintaining said levee, and providing a system of internal drainage made necessary or advisable by the construction thereof. Such improvement shall be presumed to be conducive to the public health, convenience, welfare, or utility.

[C97, §1975; C24, 27, 31, 35, 39, §**7744;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.1]
89 Acts, ch 126, §2
CS89, §468.390
Referred to in §468.391, 468.396

468.391 Manner of cooperation.

Any United States government levee under the conditions mentioned in section 468.390 may be taken into consideration by the board as a part of the plan of any levee or drainage district and improvements therein, and such board may, by agreement with the proper authorities of the United States government, provide for payment of such just and equitable portion of the costs of procuring the right-of-way and maintenance of such levee as shall be conducive to the public welfare, health, convenience, or utility.

[C97, §1975; C24, 27, 31, 35, 39, §**7745;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.2]
89 Acts, ch 126, §2
CS89, §468.391
Referred to in §468.396

468.392 Report of engineer — payment authorized.

In the proceedings to establish such a district the engineer shall set forth in the engineer's report, separately from other items, the amount of the cost for the right-of-way of such levee, of constructing and maintaining the same; and if the plan is approved and the district finally established in connection with such levee, the board shall make a record of any such cooperative arrangement and may use such part of the funds of the district as may be necessary to pay the amount so agreed upon toward the right-of-way and maintenance of such levee.

[C97, §1976; C24, 27, 31, 35, 39, §**7746;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.3]
89 Acts, ch 126, §2
CS89, §468.392
Referred to in §468.396

468.393 Costs assessed.

If said district is established, the entire costs and expenses incurred under this part shall be assessed against and collected from the lands lying within such district, by the levy of a rate upon the assessable value of the land and improvements within such district, sufficient to raise the required sum; provided the board may, in their discretion, classify the land within such district and graduate the tax thereon, as provided in subchapter I.

[C97, §1982; S13, §1982; C24, 27, 31, 35, 39, §**7747;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.4]
89 Acts, ch 126, §2
CS89, §468.393
Referred to in §468.395, 468.396

468.394 Annual installments.

If the proposed improvement is the maintenance of a levee, the amount collected in any one year shall not exceed three dollars and thirty-seven and one-half cents per thousand dollars of the assessment valuation, which said assessment shall be levied at a level rate on the assessable value of the said lands, improvements, easements, and railroads within the district. If the amount necessary to pay for the improvement exceeds said sum, it shall be levied and collected in annual installments of twenty or less. For all other improvements, the board shall levy a rate sufficient to pay for the same, and may, at their discretion, make the same payable in annual installments of twenty or less.

[C97, §1984; C24, 27, 31, 35, 39, §**7748;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.5]
89 Acts, ch 126, §2
CS89, §468.394
Referred to in §468.395, 468.396

468.395 Collection of tax.

The assessment required under sections 468.393 and 468.394 shall be made by the board of supervisors at the time of levying general taxes, after the work has been authorized, and the assessment shall be entered on the records of the board of supervisors, then entered on the tax books by the county auditor as drainage taxes, and shall be collected by the county treasurer at the same time, in the same manner, and with the same interest, as general taxes. If the assessment is not paid the treasurer shall sell all lands upon which the assessment remains unpaid, at the same time, and in the same manner, as is now by law provided for the sale of lands for delinquent taxes, including all steps up to the execution and delivery of the tax deed. The landowners shall take notice of and pay the assessments without other or further notice than as is provided for in this part. The funds realized from the assessments shall constitute the drainage fund, as contemplated in this part, and shall be disbursed on warrants drawn against that fund by the county auditor, on the order of the board of supervisors.

[C97, §1983; C24, 27, 31, 35, 39, §**7749;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.6]
89 Acts, ch 126, §2
CS89, §468.395
92 Acts, ch 1016, §38
Referred to in §468.396

468.396 Cost of maintaining.

The board of supervisors shall have the right and power to keep and maintain any such levee, ditches, drains, or system of drainage, either in whole or in part, established under sections 468.390 through 468.395, as may in their judgment be required, and to levy the expense thereof upon the real estate within such drainage district as herein provided for, and collect and expend the same; provided, however, that no such work which shall impose a tax exceeding three dollars and thirty-seven and one-half cents per thousand dollars on the assessable value of the lands and improvements within the district shall be authorized by them, unless the same is first petitioned for and authorized in substantially the manner required by this part for the inauguration of new work except that if such work is of the kinds contemplated by section 468.126, and the cost thereof is within the limitations of said section, or is of the kinds contemplated by section 468.188, and the cost thereof is within the limitations of said section, then the provisions of section 468.126 or section 468.188 shall supersede the limitations of this section.

[C97, §1986; C24, 27, 31, 35, 39, §**7750;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.7]

89 Acts, ch 126, §2

CS89, §468.396

468.397 Laws applicable.

In the establishment and maintenance of levee and drainage districts in cooperation with the United States as in this part provided, all the proceedings in the filing and the form and substance of the petition, assessment of damages, appointment of an engineer, the engineer's surveys, plats, profiles, and report, notice of hearings, filing of claims and objections, hearings, appointment of commissioners to classify lands, assess benefits, and apportion costs and expenses, report, notice and hearing on the report, the appointment of a supervising engineer, the engineer's duties, the letting of work and making contracts, payment for work, levy and collection of drainage or levee assessments and taxes, the issue of improvement certificates and drainage or levee bonds, the taking of appeals and the manner of trial of appeals, and all other proceedings relating to the district shall be as provided in subchapter I, subchapter II, parts 1 through 5, subchapter III, subchapter IV, parts 1 and 2, and subchapter V except as otherwise in this part provided.

[C97, §1976 – 1989; S13, §1976, 1977, 1979, 1981, 1982, 1984, 1985, 1985-a, 1986, 1989; C24, 27, 31, 35, 39, §**7751;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §466.8]

83 Acts, ch 101, §101; 89 Acts, ch 126, §2

CS89, §468.397

468.398 and 468.399 Reserved.

PART 7

INTERSTATE DRAINAGE DISTRICTS

468.400 Cooperation — procedure.

When proceedings for the drainage of lands bordering upon the state line are had and the total cost of constructing the improvement in this state, including all damage, has been ascertained, and the engineer in charge, before the final establishment of the district, reports that the establishment and construction of such improvement ought to be jointly done with like proceedings for the drainage of lands in the same drainage area in such an adjoining state and that drainage proceedings are pending in such state for the drainage of such lands, the said authorities of this state may enter an order continuing the hearing on the establishment of such district to a fixed date, of which all parties shall take notice.

[SS15, §1989-a77; C24, 27, 31, 35, 39, §**7752;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467.1]

89 Acts, ch 126, §2

CS89, §468.400

468.401 Agreement as to costs.

The board shall have power, when the total cost, including damages, of constructing the improvement in such other state has been ascertained by the authorities of such other state, to enter into an agreement as to the separate amounts which the property owners of each state should in equity pay toward the construction of the joint undertaking. When such amount is thus determined, the board or boards having jurisdiction in this state shall enter the same in the minutes of their proceedings and shall proceed therewith as though such amount to be paid by the portion of the district in this state had been originally determined by them as the cost of constructing the improvement in this state.

[SS15, §1989-a77; C24, 27, 31, 35, 39, §**7753;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467.2]

89 Acts, ch 126, §2

CS89, §468.401

468.402 Contracts let by joint agreement.

When the bids for construction are opened, unless the construction work on each side of the line can go forward independently, no contract shall be let by the authorities in this state, unless the acceptance of a bid or bids for the construction of the whole project is first jointly agreed upon by the authorities of both states.

[SS15, §1989-a77; C24, 27, 31, 35, 39, §**7754;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467.3]

89 Acts, ch 126, §2

CS89, §468.402

468.403 Separate contracts.

The contract or contracts for the construction of that portion of the improvement within this state shall be entirely distinct and separate from the contract or contracts let by the authorities of the neighboring state; but the aggregate amount of the contract or contracts for the construction of the work within this state shall not exceed an amount equal to the amount of the benefits assessed in this state including damages and other expenses.

[SS15, §1989-a77; C24, 27, 31, 35, 39, §**7755;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467.4]

89 Acts, ch 126, §2

CS89, §468.403

468.404 Conditions precedent.

No contract shall be let until the improvement shall be finally established in both states, and after the final adjustment in both states of damages and benefits. No bonds shall be issued until all litigation in both states arising out of said proceedings has been finally terminated by actual trial or agreements, or the expiration of all right of appeal.

[SS15, §1989-a78; C24, 27, 31, 35, 39, §**7756;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467.5]

89 Acts, ch 126, §2

CS89, §468.404

468.405 Assessments, bonds and costs — limitation.

All proceedings except as provided in this part in relation to the establishment, construction, and management of interstate drainage districts shall be as provided for the establishment and construction of districts wholly within this state as provided in subchapter I. All such proceedings shall relate only to the lands of such district which are located wholly within this state. Boards having jurisdiction in this state may make just and equitable agreements with like authorities in such adjoining state for the joint management,

repair, and maintenance of the entire improvement, after the establishment and completed construction thereof.

[SS15, §1989-a77; C24, 27, 31, 35, 39, §**7757;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §467.6]

89 Acts, ch 126, §2

CS89, §468.405

468.406 through 468.499 Reserved.

SUBCHAPTER III

MANAGEMENT OF DRAINAGE OR LEVEE DISTRICTS BY TRUSTEES

Referred to in §331.382, 331.502, 331.552, 468.184, 468.215, 468.216, 468.230, 468.259, 468.327, 468.397

468.500 Trustees authorized.

In the manner provided in this subchapter, any drainage or levee district in which the original construction has been completed and paid for by bond issue or otherwise, may be placed under the control and management of a board of three trustees to be elected by the persons owning land in the district that has been assessed for benefits.

A district under the control of a city council as provided in subchapter II, part 3, may be placed under the control and management of a board of trustees by the city council following the procedures provided in this subchapter for the county board of supervisors.

[SS15, §1989-a52a, -a61; C24, 27, 31, 35, 39, §**7674;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.1]

83 Acts, ch 163, §1; 89 Acts, ch 126, §2

CS89, §468.500

468.501 Petition.

A petition shall be filed in the office of the auditor signed by a majority of the persons including corporations owning land within the district assessed for benefits.

[S13, §1989-a52b; SS15, §1989-a52a; C24, 27, 31, 35, 39, §**7675;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.2]

89 Acts, ch 126, §2

CS89, §468.501

468.502 Election.

The board, at the next regular, adjourned, or special session shall canvass the petition and if signed by the requisite number of landowners, it shall order an election to be held at some convenient place in the district not less than forty nor more than sixty days from the date of such order, for the election of three trustees of such district. It shall appoint from the freeholders of the district who reside in the county or counties, three judges and two clerks of election. It shall not be mandatory for the county commissioner of elections to conduct elections held pursuant to this subchapter, but they shall be conducted in accordance with the provisions of chapter 49 where not in conflict with this subchapter.

[S13, §1989-a52b; SS15, §1989-a63; C24, 27, 31, 35, 39, §**7676;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.3]

89 Acts, ch 126, §2

CS89, §468.502

Referred to in §468.503

468.503 Intercounty district.

If the district extends into two or more counties, a duplicate of the petition shall be filed in the office of the auditor of each county. The boards of supervisors shall, within thirty days after the filing of such petition, meet in joint session and canvass the same, and if found to be signed by a majority of the owners of land in the district assessed for benefits, they shall

by joint action order such election and appoint judges and clerks of election as provided in section 468.502.

[S13, §1989-a52b; SS15, §1989-a62, -a63; C24, 27, 31, 35, 39, §**7677;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.4]

89 Acts, ch 126, §2

CS89, §468.503

468.504 Election districts.

When a petition has been filed for the election of trustees to manage a district containing twenty thousand acres or more, the board, or, if the district extends into more than one county, the boards of the counties by joint action, shall, before the election, divide the district into three election districts for the purpose of securing a proper distribution of trustees in the district, and the division shall be so made that each election district will have substantially equal voting power and acreage, as nearly as may be. After the division is made there shall be elected one trustee for each of the election districts, but at the election all the qualified voters for the entire district shall be entitled to vote for each trustee. The division here provided for shall be for the purposes only of a proper distribution of trustees in the district and shall not otherwise affect the district or its management and control.

[C24, 27, 31, 35, 39, §**7678;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.5]

89 Acts, ch 126, §2

CS89, §468.504

2001 Acts, ch 89, §1

Referred to in §468.505

468.505 Record and plat of election districts.

At the time of making a division into election districts, as provided in section 468.504, the board or boards shall designate by congressional divisions, subdivisions, metes and bounds, or other intelligible description, the lands embraced in each election district, and the auditor, or auditors if more than one county shall make a plat thereof in the drainage record of the district indicating thereon the boundary lines of each election district, numbering them, one, two, and three, respectively.

[C24, 27, 31, 35, 39, §**7679;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.6]

89 Acts, ch 126, §2

CS89, §468.505

468.506 Eligibility of trustees.

Each trustee shall be a citizen of the United States not less than eighteen years of age, and one of the following:

1. The bona fide owner of agricultural land in the election district for which the trustee is elected, and a resident of the county in which that district is located or of a county which is contiguous to or corners on that county.

2. The bona fide owner of nonagricultural land in the election district for which the trustee is elected, and a resident of that district. This subsection applies only when the election district is wholly within the corporate limits of a city.

3. A stockholder of a family farm corporation as defined in section 9H.1, subsection 9, which owns land in the election district who is a resident of the county in which that district is located or of a county which is contiguous to or corners on that county.

4. In a district which is a levee and drainage district which has eighty-five percent of its acreage within the corporate limits of a city and has been under the control of a city under subchapter II, part 3, a bona fide owner of benefited land in the district. If the owner is a family farm corporation as defined by section 9H.1, subsection 9, a business corporation organized and existing under chapter 490 or 491, or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

[C24, 27, 31, 35, 39, §**7680;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.7]

83 Acts, ch 163, §2; 89 Acts, ch 126, §2

CS89, §468.506
90 Acts, ch 1205, §15; 93 Acts, ch 126, §5

468.507 Notice of election.
The board, or, if in more than one county, the boards acting jointly, shall cause notice of said election to be given, setting forth the time and place of holding the same and the hours when the polls will open and close. Such notice shall be published for two consecutive weeks in a newspaper in which the official proceedings of the board are published in the county, or if the district extends into more than one county, then in such newspaper of each county. The last of such publications shall not be less than ten days before the date of said election.
[S13, §1989-a52b; SS15, §1989-a63; C24, 27, 31, 35, 39, §**7681;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.8]
89 Acts, ch 126, §2
CS89, §468.507

468.508 Assessment to determine right to vote.
Before any election is held, the election board shall obtain from the county auditor or auditors a certified copy of so much of the record of the establishment of such district as will show the lands embraced therein, the assessment and classification of each tract, and the name of the person against whom the same was assessed for benefits, and the present record owner, and such certified record shall be kept by the trustees after they are elected, for use in subsequent elections. They shall, preceding each subsequent election, procure from the county auditor or auditors additional certificates showing changes of title of land assessed for benefits and the names of the new owners.
[SS15, §1989-a75; C24, 27, 31, 35, 39, §**7682;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.9]
89 Acts, ch 126, §2
CS89, §468.508

468.509 New owner entitled to vote.
Anyone who has acquired ownership of assessed lands since the latest certificate from the auditor shall be entitled to vote at any election if the person presents to the election board for its inspection at the time the person demands the right to vote evidence showing that the person has title.
[SS15, §1989-a75; C24, 27, 31, 35, 39, §**7683;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.10]
89 Acts, ch 126, §2
CS89, §468.509

468.510 Qualifications of voters.
Each landowner eighteen years of age or over without regard to sex and any railway or other corporation owning land in said district assessed for benefits shall be entitled to one vote only, except as provided in section 468.511.
[SS15, §1989-a73; C24, 27, 31, 35, 39, §**7684;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.11]
89 Acts, ch 126, §2
CS89, §468.510

468.511 Votes determined by assessment.
1. When a petition asking for the right to vote in proportion to assessment of benefits at all elections for any purpose thereafter to be held within said district, signed by a majority of the landowners owning land within said district assessed for benefits, is filed with the board of trustees, then, in all elections of trustees thereafter held within said district, any person whose land is assessed for benefits without regard to age, sex, or condition shall be entitled to one vote for each ten dollars or fraction thereof of the original assessment under the current classification against the land actually owned by the person in said district at the time of the

election, but in order to have such ballot counted for more than one vote the voter shall write the voter's name upon the ballot. The vote of any landowner of the district may be cast by absent voters ballot as provided in chapter 53 except that the form of the applications for ballots, the voters' affidavits on the envelopes, and the endorsement of the carrier envelope for preserving the ballot shall be substantially in the form provided in subsections 2, 3, and 4, below. Application blanks, envelopes, and ballots shall be provided by and submitted to the office of the county auditor in which the election is held. The cost of such blanks, envelopes, ballots, and postage shall be paid by the district. For the purpose of this subchapter all landowners of the district shall be considered qualified voters, regardless of their place of residence.

2. For the purpose of this subchapter, applications for ballots shall be made on blanks substantially in the following form:

Application for ballot to be voted at the
..... (Name of District) District Election
on ..... (Date)

State of .....)
..... County) ss.

I, ... (Applicant), do solemnly swear that I am a landowner in the ..... (Name of District) District and that I am a duly qualified voter entitled to vote in said election, and I hereby make application for an official ballot or ballots to be voted by me at such election, and that I will return said ballot or ballots to the officer issuing same before the day of said election.

Signed .....
Date .....
Residence (street number if any) .....
City ..... State .....

Subscribed and sworn to before me this ..... day of ..... (month), ... (year)

3. For the purpose of this subchapter, the affidavit on the reverse side of the envelopes used for enclosing the marked ballots shall be substantially as follows:

State of .....)
..... County) ss.

I, ... (Applicant), do solemnly swear that I am a landowner in the ..... (Name of District) District and that I am a duly qualified voter to vote in the election of trustees of said district and that I have marked the enclosed ballot in secret.

Signed .....

Subscribed and sworn to before me this ..... day of ..... (month), ... (year), and that I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that the affiant then in my presence and in the presence of no other person and in such manner that I could not see the affiant's vote, marked such ballot, enclosed and sealed the same in this envelope; and that the affiant was not solicited or advertised by me for or against any candidate or measure.

.....
.....
(Official Title)

4. For the purposes of this subchapter, upon receipt of the ballot, the auditor shall at once enclose the same, unopened, together with the application made by the voter in a large carrier

envelope, securely seal the same, and endorse thereon over the auditor's official signature, the following:

a. Name of the district in which the voter is a landowner.

b. Date of the election for which the ballot is cast.

c. Location of the polling place at which the ballot would be legally and properly cast if voted in person.

d. Names of the judges of the election of that polling place, and the statement that this envelope contains an absent voters ballot and must be opened only at the polls on election day while said polls are open.

[SS15, §1989-a73; C24, 27, 31, 35, 39, §**7685;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.12]

89 Acts, ch 126, §2

CS89, §468.511

2000 Acts, ch 1058, §63; 2009 Acts, ch 57, §95

Referred to in §468.510, 468.512

468.512 Vote by agent.

Except where the provisions of section 468.511, providing for vote in proportion to assessment are invoked, any person or corporation owning land or right-of-way within the district and assessed for benefits may have the person's or the corporation's vote cast by the person's or the corporation's agent or proxy authorized to cast such vote by a power of attorney signed and acknowledged by such person or corporation, and filed before such vote is cast in the auditor's office of the county in which such election is held. Every such power of attorney shall specify the particular election for which it is to be used, indicating the day, month, and year of such election, and shall be void for all elections subsequently held. The vote of the owner of any land in a drainage or levee district in any election, where the vote is not determined by assessment, may be cast by absent voters ballot in the same manner and form and subject to the same rights and restrictions as is provided in section 468.511 relating to vote by absentee ballot when votes are determined by assessment.

[SS15, §1989-a73; C24, 27, 31, 35, 39, §**7686;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.13]

89 Acts, ch 126, §2

CS89, §468.512

468.513 Vote of minor or person under legal incompetency.

The vote of any person who is a minor or under legal incompetency shall be cast by the parent, guardian, or other legal representative of the person. The person casting the vote shall deliver to the judges and clerks of election a written sworn statement giving the name, age, and place of residence of the minor or person under legal incompetency, and any false statement knowingly made to secure permission to cast such vote shall render the party so making it guilty of the crime of perjury.

[C24, 27, 31, 35, 39, §**7687;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.14]

89 Acts, ch 126, §2

CS89, §468.513

96 Acts, ch 1129, §95

[P] Perjury, punishment, §720.2

468.514 Ballots — petition for printed ballots.

Candidates for drainage district trustee shall have their names placed on printed ballots provided a petition therefor is signed by ten qualified voters of the district and filed with the clerk of the board at least twenty-five days but not more than sixty-five days before the election. Space shall also be provided on the ballot for write-in votes.

[C24, 27, 31, 35, 39, §**7688;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.15]

86 Acts, ch 1099, §3; 89 Acts, ch 126, §2

CS89, §468.514

2001 Acts, ch 56, §36

468.515 Candidates voted for.

Each qualified voter for the whole district shall be entitled to vote for one candidate for each district for which a trustee is to be elected.

[C24, 27, 31, 35, 39, §**7689;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.16]

89 Acts, ch 126, §2

CS89, §468.515

468.516 Election — canvass of votes — returns.

On the day designated for said election the polls shall open at 1:00 p.m. and remain open until 5:00 p.m. unless otherwise provided under section 468.522. If no convenient polling place is to be found within the district, the election may be held at some convenient place outside the district. The judges of election shall canvass the vote and certify the result, and deposit with the auditor the ballots cast, together with the pollbooks showing the names of the voters; but if there is more than one county in the district, the returns shall be filed with the auditor of the county having the greatest acreage of said district.

[S13, §1989-a52c; SS15, §1989-a64; C24, 27, 31, 35, 39, §**7690;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.17]

89 Acts, ch 126, §2

CS89, §468.516

91 Acts, ch 54, §1

Referred to in §468.522

468.517 Canvass — certificates of election.

The canvass of the returns by the board or boards of supervisors shall be on the next Monday following the election. If the district is in more than one county, the board of supervisors of the county with the greatest acreage in the district shall canvass the vote. The board of supervisors of the other counties in which the district is located may attend and participate in the canvass of the returns. It or they shall make a return of the results of the canvass to the auditor, who shall issue certificates to the trustees elected, and when the district extends into more than one county, then the auditor with whom the election returns were filed shall issue the certificates and certify an abstract of the canvass to each other county in which the district is located.

[S13, §1989-a52c; SS15, §1989-a64; C24, 27, 31, 35, 39, §**7691;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.18]

85 Acts, ch 163, §11; 89 Acts, ch 126, §2

CS89, §468.517

468.518 Tenure of office.

The trustees so elected shall hold office until the fourth Saturday in January next succeeding their election and until their successors are elected and qualify. On the third Saturday in the January next succeeding their original election, an election shall be held at which three trustees shall be chosen, one for one year, one for two years, and one for three years, and each shall qualify and enter upon the duties of the office on the fourth Saturday of the same January. On the third Saturday in each succeeding January, an election shall be held to choose a successor to the trustee whose term is about to expire, and the term of the trustee's office shall be for three years and until a successor has qualified.

[SS15, §1989-a52d, -a65 – a67; C24, 27, 31, 35, 39, §**7692;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.19]

89 Acts, ch 126, §2

CS89, §468.518

468.519 Levee and pumping station districts.

In levee and drainage districts having pumping stations trustees shall hold office until the fourth Saturday in January three years after election. On the third Saturday in January of each year a trustee shall be elected for a term of three years to succeed the member of the

board whose term will expire on the following Saturday. At the election there shall also be elected, if necessary, a trustee to fill any vacancy which occurred before the election.

[S13, §1989-a52e; SS15, §1989-a52d; C24, 27, 31, 35, 39, §**7693;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.20]

83 Acts, ch 101, §99; 89 Acts, ch 126, §2

CS89, §468.519

468.520 Division of districts under trustees.

When a trustee is to be elected, it shall be for a specified election district within the district.

[C24, 27, 31, 35, 39, §**7694;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.21]

83 Acts, ch 101, §100; 89 Acts, ch 126, §2

CS89, §468.520

468.521 Elections — how conducted.

After the first election of trustees, the trustees shall act as judges of election; however, a trustee standing for election shall not serve as a judge and shall be replaced as judge by a person not standing for election who is eligible to be elected as a trustee. The clerk of the board shall act as one of the clerks and some owner of land in the district shall be appointed by the board to act as another clerk. The trustees shall fill all vacancies in the election board. The result of each election shall be certified to the auditor or the several county auditors if the district is located in more than one county.

[SS15, §1989-a69; C24, 27, 31, 35, 39, §**7695;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.22]

85 Acts, ch 163, §12; 89 Acts, ch 126, §2

CS89, §468.521

468.522 Change of date and time.

The date on which the annual election shall be held and the polling hours may be changed by the choice of a majority of electors of the district expressed by ballot at any annual election, and the return of the vote shall be certified in the same manner as the returns for election of trustees. The polling hours may vary from the requirements of section 468.516, but the polls shall be open for at least three consecutive hours between the hours of 8:00 a.m. and 5:00 p.m. on the election day.

[S13, §1989-a52e; C24, 27, 31, 35, 39, §**7696;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.23]

89 Acts, ch 126, §2

CS89, §468.522

91 Acts, ch 54, §2

Referred to in §468.516

468.523 Vacancies.

If any vacancy occurs in the membership of the board of trustees between the annual elections, the remaining members of the board shall have power to fill such vacancies by appointment of persons having the same qualifications as themselves. The persons so appointed shall qualify in the same manner and hold office until the next annual election when their successors shall be elected. In the event that all places on the board become vacant, then a new board shall be appointed by the auditor, or if more than one county, then by the auditor of the county in which the greater acreage of the district is located. The persons so appointed shall hold office until the next annual election and until their successors are elected and qualify.

[SS15, §1989-a68; C24, 27, 31, 35, 39, §**7697;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.24]

89 Acts, ch 126, §2

CS89, §468.523

468.524 Bonds.

The trustees shall qualify by giving a bond in the sum of not less than one thousand dollars or more than five thousand dollars each, conditioned for the faithful discharge of their duties, said bond to be fixed and approved by the auditor of the county, and if more than one, then of the county in which the greater acreage of the district is located.

[SS15, §1989-a52f, -a71; C24, 27, 31, 35, 39, §**7698;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.25]

89 Acts, ch 126, §2

CS89, §468.524

468.525 Organization.

As soon as the trustees have qualified, they shall organize by electing one of their own number as chairperson and may select some other competent person as clerk of the board who shall serve during the pleasure of the board of trustees.

[SS15, §1989-a70; C24, 27, 31, 35, 39, §**7699;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.26]

89 Acts, ch 126, §2

CS89, §468.525

468.526 Powers and duties of trustees.

Trustees shall have control, supervision, and management of the district for which they are elected and shall be clothed with all of the powers now conferred on the board or boards of supervisors for the control, management, and supervision of drainage and levee districts under the laws of the state, including the power to acquire lands by conveyance, lease, or by the exercise of the power of eminent domain as provided for in chapter 6B for right-of-way for levees, ditches and settling basins within or without the district and to annex lands to the district, except as provided in section 468.527. Such authority shall extend only to the district for which they are elected.

[SS15, §1989-a52f, -a71; C24, 27, 31, 35, 39, §**7700;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.27]

89 Acts, ch 126, §2

CS89, §468.526

468.527 Costs and expenses.

All costs and expenses necessary to discharge the duties by this subchapter conferred upon trustees shall be levied and collected as provided by law and such levy shall be upon certificate by the trustees to the board or boards of supervisors of the amount necessary for such levy.

[SS15, §1989-a52f, -a71; C24, 27, 31, 35, 39, §**7701;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.28]

89 Acts, ch 126, §2

CS89, §468.527

Referred to in §468.216, 468.526

468.528 Disbursement of funds.

Drainage and levee taxes when so levied and collected shall be kept by the treasurer of the county in a separate fund to the credit of the district for which it is collected. The county treasurer shall disburse the moneys in the fund only upon any of the following:

1. The orders of the board of trustees, signed by the president of the board, upon which warrants shall be drawn by the auditor upon the treasurer.

2. For drainage and levee districts with pumping stations, by orders of the board of trustees directing the treasurer to place all or any part of the moneys into a checking account established by the board in a bank or credit union as defined in section 12C.1.

a. The treasurer shall disburse the moneys only upon resolution duly adopted by the board. The board shall not expend moneys in the account for a purpose if the board could not order the county treasurer to expend moneys from the county's separate fund for that same purpose.

b. The board shall file with the county auditor an annual financial statement that is accompanied by an unqualified opinion based upon an audit of the account performed by a certified public accountant licensed in this state. Notwithstanding paragraph "*a*", the board shall pay the costs associated with performing the audit out of the district's moneys.

[SS15, §1989-a52f; C24, 27, 31, 35, 39, §**7702;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.29]

89 Acts, ch 126, §2

CS89, §468.528

2011 Acts, ch 94, §2

Referred to in §468.54

468.529 Certificates and bonds.

The board of trustees of any district shall have the same power to issue improvement certificates and levee and drainage bonds under the same conditions and with like tenor and effect as is provided by subchapter I, parts 1 through 5, for such issuance by the board of supervisors, except that in case of the issue of levee or drainage bonds, the same shall be approved by a judge of the district court in and for the county or counties in which such district lies, which approval shall be printed upon such bonds before the same are negotiated.

[SS15, §1989-a52f; C24, 27, 31, 35, 39, §**7703;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.30]

89 Acts, ch 126, §2

CS89, §468.529

468.530 Report to auditor.

Such trustees shall, from time to time, and with reasonable promptness, furnish the auditor of each county in which any part of said district is situated, with a correct report of their acts and proceedings, which report shall be signed by the chairperson and the clerk of the board and shall be recorded by the auditor in the drainage record, and shall be published in one official paper in the county having a general circulation in the district.

[S13, §1989-a52g; SS15, §1989-a72; C24, 27, 31, 35, 39, §**7707;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.34]

89 Acts, ch 126, §2

CS89, §468.530

468.531 Compensation — statements required.

The compensation of the trustees and the clerk of the board is hereby fixed at an amount not to exceed two hundred dollars per day each and necessary expenses, to be paid out of the funds of the drainage or levee district for each day necessarily expended in the transaction of the business of the district, but no one shall draw compensation for services as trustee and as clerk at the same time. The board of trustees of a district may by resolution establish for themselves and for the clerk of the district a lower rate of pay than is fixed by this section. They shall file with the auditor or auditors, if more than one county, itemized, verified statements of their time devoted to the business of the district and of the expenses incurred.

[SS15, §1989-a52f, -a74; C24, 27, 31, 35, 39, §**7708;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.35]

89 Acts, ch 126, §2

CS89, §468.531

2011 Acts, ch 94, §3

468.532 Change to supervisor management.

Any district which has been placed under the management of trustees may be placed back under the management of the board or boards of supervisors in the manner provided in section 468.533.

[C24, 27, 31, 35, 39, §**7709;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.36]

89 Acts, ch 126, §2

CS89, §468.532

468.533 Petition — canvass.

For such purposes a petition signed by a majority of persons, including corporations, owning land within the district assessed for benefits and who in the aggregate own more than one-half the acreage of such lands, may be filed in the office of the auditor and if more than one county, then a duplicate shall be filed in the office of the auditor of each county.

The trustees shall fix a date not less than ten nor more than thirty days from the date such petition is filed for the canvass of such petition, and the trustees and auditor or auditors shall canvass said petition and certify and record in the drainage record the result.

[C24, 27, 31, 35, 39, §**7710;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.37]
89 Acts, ch 126, §2
CS89, §468.533
Referred to in §468.532

468.534 Remonstrance.

Remonstrances signed by the same persons who are qualified to sign the petition may be filed in the office of the auditor and if the same persons petition and remonstrate they shall be counted on the remonstrance only. Such remonstrances shall be filed not less than five days before the time set for hearing.

[C24, 27, 31, 35, 39, §**7711;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.38]
89 Acts, ch 126, §2
CS89, §468.534

468.535 When change effective.

If the result of the canvass shows a majority in favor of such change, then it shall become effectual on the date at which the next annual election of trustees would be held, and on such date the trustees shall surrender and turn over to the board or boards of supervisors the full and complete management and control of such district, together with all books, contracts, and other documents relating thereto.

[C24, 27, 31, 35, 39, §**7712;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.39]
89 Acts, ch 126, §2
CS89, §468.535

468.536 Final report of trustees.

On or before the date such change becomes effective, the said trustees shall make and file with the auditor, or if more than one county, a duplicate with each auditor, a final report setting forth:

1. The amount of cash funds on hand or to the credit of the district.
2. The amount of outstanding indebtedness of the district, and the form thereof, whether in warrants, improvement certificates, or bonds and the amount of each.
3. Any outstanding contracts for repairs or other work to be done.
4. A statement showing the condition of the improvements of the district, and specifying any portion thereof in need of repair.

[C24, 27, 31, 35, 39, §**7713;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.40]
89 Acts, ch 126, §2
CS89, §468.536

468.537 Management by supervisors.

After such change is made it shall be the duty of the board or boards of supervisors to manage and control the affairs of said district as fully and to the same extent as if it had never been under trustee management. They shall carry out any pending contracts lawfully made by the trustees as fully as if made by the board.

[C24, 27, 31, 35, 39, §**7714;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.41]
89 Acts, ch 126, §2
CS89, §468.537

468.538 and 468.539 Reserved.

SUBCHAPTER IV

FINANCING

PART 1

DRAINAGE REFUNDING BONDS

Referred to in §331.382, 331.552, 468.397

468.540 Refunding bonds.

The board of supervisors of any county may extend the time of the payment of any of its outstanding drainage bonds issued in anticipation of the collection of drainage assessments levied upon property within a drainage district, and may extend the time of payment of any unpaid assessment, or any installment or installments thereof, and may renew or extend the time of payment of such legal bonded indebtedness, or any part thereof, for account of such drainage district, and may refund the same and issue drainage refunding bonds therefor subject to the limitation and in the manner hereinafter provided.

[C27, 31, 35, §7714-b1; C39, §**7714.01;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.1]
89 Acts, ch 126, §2
CS89, §468.540
[P] Similar provision, §468.367

468.541 Petition for refunding.

Before the time of payment of said assessments or any installment or installments thereof shall be extended and before the board shall institute proceedings for the issuance of drainage refunding bonds, the owners of not less than fifteen percent of the land within a drainage district as shown by the transfer books in the auditor's office upon which drainage assessments are unpaid, shall file a petition with the board requesting the extension of the time of payment of assessments levied in said drainage district or of any installment or installments thereof, setting forth the date said assessments to be extended were levied, the aggregate amount thereof unpaid, and requesting the issuance of drainage refunding bonds, stating the amount and purpose of said bonds.

[C27, 31, 35, §7714-b2; C39, §**7714.02;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.2]
89 Acts, ch 126, §2
CS89, §468.541

468.542 Sufficiency of petition — hearing.

Upon the receipt of any such petition the board shall, at the next regular meeting or regular adjourned meeting, determine the sufficiency thereof and fix a date of meeting of the board at which it is proposed to extend the time of payment of said unpaid assessments and to take action for the issuance of drainage refunding bonds.

[C27, 31, 35, §7714-b3; C39, §**7714.03;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.3]
89 Acts, ch 126, §2
CS89, §468.542

468.543 Notice.

The board shall give ten days' notice of said meeting as required in relation to the issuance of bonds under chapter 73A.

[C27, 31, 35, §7714-b4; C39, §**7714.04;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.4]
89 Acts, ch 126, §2
CS89, §468.543
Referred to in §468.567

468.544 Requirements of notice.

Said notice shall be directed to each person whose name appears upon the transfer books in the auditor's office as owner of lands within said drainage district upon which said drainage assessments are unpaid, naming the owner, and also to the person or persons in

actual occupancy of any of said tracts of land without naming them, and shall state the amount of unpaid assessments upon each forty-acre tract of land or less, and that all of said unpaid assessments, installment or installments thereof as proposed to be extended, may be paid in cash on or before the time fixed for said hearing, and that after the expiration of such time no assessments may be paid except in the manner and at the times fixed by the board in the resolution authorizing the issuance of said drainage refunding bonds.

[C27, 31, 35, §7714-b5; C39, §**7714.05;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.5]
89 Acts, ch 126, §2
CS89, §468.544
Referred to in §468.567

468.545 Extending payment of assessments.

If no appeal is taken to the issuance of bonds, as provided by chapter 73A, the board may extend the time of payment of the unpaid assessment or an installment or installments of it as requested in the petition and may issue drainage refunding bonds, or, in case of an appeal, the board may issue the bonds in accordance with the decision of the appeal board provided the assessments, installment, or installments have not been entered on the delinquent tax lists and have not been previously extended.

[C27, 31, 35, §7714-b6; C39, §**7714.06;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.6]
88 Acts, ch 1158, §76; 89 Acts, ch 126, §2
CS89, §468.545
Referred to in §468.567

468.546 Appeal.

Any person aggrieved by the final action of the board extending the time of payment of said unpaid assessment, installment or installments thereof may appeal therefrom to the district court of the county in which such action was taken.

[C27, 31, 35, §7714-b7; C39, §**7714.07;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.7]
89 Acts, ch 126, §2
CS89, §468.546

468.547 Time and manner of appeal.

All appeals shall be taken in the manner provided in section 468.84 except that said appeal shall be taken within ten days after the date of the final action of the board.

[C27, 31, 35, §7714-b8; C39, §**7714.08;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.8]
89 Acts, ch 126, §2
CS89, §468.547

468.548 Maximum extension.

The unpaid assessments against said lands within said drainage district shall not be extended for a period exceeding forty years from the time any assessment, installment or installments thereof to be extended become due. The board shall fix the amount that shall be levied and collected each year and may issue drainage refunding bonds covering all said unpaid assessments.

[C27, 31, 35, §7714-b9; C39, §**7714.09;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.9]
89 Acts, ch 126, §2
CS89, §468.548

468.549 Form of bonds.

Drainage refunding bonds shall be issued in denominations of not less than one hundred dollars nor more than one thousand dollars, each, running not more than forty years, bearing interest at a rate not exceeding that permitted by chapter 74A, payable semiannually, and shall be substantially in the form provided by law relating to drainage bonds, with such changes as shall be necessary to conform with this part.

[C27, 31, 35, §7714-b10; C39, §**7714.10;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.10]
89 Acts, ch 126, §2
CS89, §468.549

468.550 Numbering, signing and attestation.

Said bonds shall be numbered consecutively, signed by the chairperson of the board and attested by the county auditor with the seal of the county affixed. The interest coupons attached thereto shall be executed by the county auditor.

[C27, 31, 35, §7714-b11; C39, §**7714.11;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.11]
89 Acts, ch 126, §2
CS89, §468.550

468.551 Resolution required.

All bonds issued under the provisions of this part shall be issued pursuant to and in conformity with a resolution adopted by the board of supervisors which shall specify the amount of unpaid assessments to be extended, the times when the installment or installments of extended assessments shall become due, the amount of drainage refunding bonds authorized to be issued, the purpose for which issued, the rate of interest they shall bear, the place where the principal and interest shall be payable and the time or times when they shall become due, and such other provisions not inconsistent with law in reference thereto, as the board shall deem proper.

[C27, 31, 35, §7714-b12; C39, §**7714.12;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.12]
89 Acts, ch 126, §2
CS89, §468.551

468.552 Record of resolution.

Said resolution shall be entered of record upon the minutes of proceedings of said board and shall constitute a contract between the drainage district and the purchasers or holders of said bonds and shall be full authority for the revision of the tax rolls to accord therewith.

[C27, 31, 35, §7714-b13; C39, §**7714.13;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.13]
89 Acts, ch 126, §2
CS89, §468.552

468.553 Record of bonds.

When the bonds have been executed as aforesaid they shall be delivered to the county treasurer and the treasurer's receipt taken therefor. The treasurer shall register said bonds in a book provided for that purpose which shall show the number of each bond, its date, date of sale, amount, date of maturity, and the name and address of the purchaser, and if exchanged what evidences of indebtedness were received therefor, which record shall at all times be open to the inspection of the owners of property within said drainage district. The treasurer shall thereupon certify on the back of each bond as follows:

This bond duly and properly registered in my office this .....
day of ..... (month), ... (year).
.....
Treasurer of the County of
.....

[C27, 31, 35, §7714-b14; C39, §**7714.14;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.14]
89 Acts, ch 126, §2
CS89, §468.553
2000 Acts, ch 1058, §56

468.554 Liability of treasurer — reports.

The treasurer shall stand charged on the treasurer's official bond with all bonds so delivered to the treasurer and the proceeds thereof. The treasurer shall report under oath to the board, at each first regular session thereof in each month, a statement of all such bonds sold or

exchanged by the treasurer since the treasurer's last report and the date of such sale or exchange and when exchanged a description of the indebtedness for which exchanged.

[C27, 31, 35, §7714-b15; C39, §**7714.15;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.15]
89 Acts, ch 126, §2
CS89, §468.554

468.555 Sale, exchange and cancellation.

The county treasurer shall, under a resolution and the direction of the said county board of supervisors, sell the bonds for cash on the best available terms or exchange them on like terms for the legal indebtedness of the said drainage district evidenced by the outstanding drainage bonds, authorized to be refunded by the resolution authorizing the issue of said refunding bonds, and the proceeds shall be applied and exclusively used for the purpose for which said bonds are issued. In no case shall they be sold or exchanged for a less sum than their face value and all interest accrued. After registration the treasurer shall deliver said refunding bonds to the purchaser thereof and when exchanged for said bonded indebtedness of said district, shall at once cancel a like amount of said drainage bonds.

[C27, 31, 35, §7714-b16; C39, §**7714.16;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.16]
89 Acts, ch 126, §2
CS89, §468.555

468.556 Redemption from tax sale.

In case any land within such drainage district shall have been sold at tax sale for failure of the owner thereof to pay any drainage assessments levied thereon, and before any tax deed has been issued, then on application of the owner of such land, the board of supervisors may effect a redemption thereof for such owner out of the proceeds of any refunding bond issue and add the cost of such redemption to the amount of the unpaid assessments against such land, payment thereof to be extended in manner and as a part of the remaining unpaid assessments thereon.

[C35, §7714-f1; C39, §**7714.17;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.17]
89 Acts, ch 126, §2
CS89, §468.556

468.557 Effect of extension.

The extension of the time of payment of any unpaid assessments or installment or installments thereof, in the manner aforesaid shall in no way impair the lien of said assessments as originally levied or the priority thereof, nor the right, duty, and power of the officers authorized by law to levy, collect, and apply the proceeds thereof to the payment of said drainage refunding bonds.

[C27, 31, 35, §7714-b17; C39, §**7714.18;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.18]
89 Acts, ch 126, §2
CS89, §468.557

468.558 Additional assessments.

If said assessments should for any reason be insufficient to meet the interest and principal of said drainage refunding bonds additional assessments shall be made to provide for such deficiency.

[C27, 31, 35, §7714-b18; C39, §**7714.19;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.19]
89 Acts, ch 126, §2
CS89, §468.558

468.559 Applicability of funds.

All special assessments, taxes, and sinking funds applicable to the payment of the indebtedness refunded by said drainage bonds shall be applicable in the same manner and to the same extent to the payment of such refunding bonds issued hereunder, and the

powers, rights, and duties to levy and collect special assessments or taxes, or create liens upon property shall continue until all refunding bonds shall be paid.

[C27, 31, 35, §7714-b19; C39, §**7714.20;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.20]
89 Acts, ch 126, §2
CS89, §468.559

468.560 Trust fund.

The special assessments out of which said bonds are payable shall be collected and held separate and apart in trust for the payment of said refunding bonds.

[C27, 31, 35, §7714-b20; C39, §**7714.21;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.21]
89 Acts, ch 126, §2
CS89, §468.560

468.561 Liens unimpaired.

When drainage refunding bonds are issued hereunder, nothing in this part shall be construed as impairing the lien of any unpaid drainage assessments or installments in such drainage district, the time of payment of which is not extended, nor shall this part be construed as impairing the priority of the lien thereof nor the right, duty, and power of the officers authorized by law to levy, collect, and apply the proceeds thereof to the payment of outstanding drainage bonds issued in anticipation of the collection thereof.

[C27, 31, 35, §7714-b21; C39, §**7714.22;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.22]
89 Acts, ch 126, §2
CS89, §468.561

468.562 Limitation of action.

No action shall be brought questioning the validity of any of the bonds authorized by this part from and after three months from the time the same are ordered issued by the proper authorities.

[C27, 31, 35, §7714-b22; C39, §**7714.23;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.23]
89 Acts, ch 126, §2
CS89, §468.562
[P] Similar provisions, §468.377, 468.581

468.563 Void bonds or assessments.

The provisions of this part shall not apply to bonds or assessments adjudicated to be void.

[C27, 31, 35, §7714-b23; C39, §**7714.24;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.24]
89 Acts, ch 126, §2
CS89, §468.563

468.564 Interpretative clause.

This part shall be construed as granting additional power without limiting the power already existing for the extension of the time of payment of drainage assessments and the issuance of drainage bonds.

[C27, 31, 35, §7714-b24; C39, §**7714.25;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.25]
89 Acts, ch 126, §2
CS89, §468.564

468.565 Composition with creditors — federal loans.

For the purpose of refinancing, adjusting, composing and refunding in such adjusted amount the indebtedness of any drainage districts or levee districts, found to be in financial distress, the governing body thereof, or board of supervisors as the case may be, upon its own motion, is authorized to enter into agreements with the creditors of said district, for the reduction and composition of its outstanding indebtedness, and to make application for and

negotiate with the reconstruction finance corporation, or any other loaning agency, for the borrowing of funds for such purposes.

[C35, §7714-g1; C39, §**7714.26;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.26]
89 Acts, ch 126, §2
CS89, §468.565

468.566 Refinancing powers.

In order to effect such loan, the governing body of such district, or board of supervisors, is authorized to execute such agreements and contracts, and to fulfill such requirements of the loaning agency as are not inconsistent with this part; and to issue, and pledge or sell such bonds at their face value to the said reconstruction finance corporation, or other loaning agency, furnishing the funds for such debt readjustment, in the amount required for such adjustment.

The governing body, or board of supervisors, shall also have the authority as a part of such plan of refinancing, adjusting, composing, and refunding its indebtedness, to cancel the old assessments collectible against the land within the district, pledged to the payment of its outstanding indebtedness and proportionately and equitably relevy the same, with interest, over the period covered by the new bonds, in an amount sufficient to pay said new bonds and interest thereon, provided, however, that the new assessments thereby created against any tract of land within the district shall not be in excess of the unpaid assessments against such tract before the readjustment or composition is made, and provided further, that such new and extended assessment against such tract shall fully replace the old assessment.

[C35, §7714-g2; C39, §**7714.27;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.27]
89 Acts, ch 126, §2
CS89, §468.566

468.567 Report and hearing — appeal.

1. At the direction of the governing board of such district, or board of supervisors, the county auditor of the county within which the land on which the indebtedness is being adjusted is situated, shall compile a tabulated report as to the lands within the said district, setting forth:

a. The name of the owner of each assessed tract as shown by the transfer books in the county auditor's office.

b. The amount of the unpaid old assessments against each of said tracts.

c. The amount of the new assessment required to pay the new bonds to be issued, together with the installments to be paid thereon annually of principal and interest, and the maximum period of time over which such assessments shall be paid.

2. After such report is tabulated and filed, a hearing upon the contemplated action of the governing body of such district, or board of supervisors, to make the proposed adjustment, composition, renewal and refunding in such adjusted amount of its outstanding indebtedness, together with the issuance of bonds and the levying of assessments therefor, shall be had in the manner and upon the same notice as is prescribed in sections 468.543 through 468.545 and appeal may be made therefrom as provided in this part.

[C35, §7714-g3; C39, §**7714.28;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §463.28]
89 Acts, ch 126, §2
CS89, §468.567
2011 Acts, ch 25, §143

468.568 and 468.569 Reserved.

PART 2

DEFAULTED DRAINAGE BONDS

Referred to in §331.382, 331.552, 468.397

468.570 Extension of payment — application.

When drainage district bonds have been issued in anticipation of the collection of drainage district assessments levied on real estate within such drainage district are in default, either for failure to pay principal installments or accrued interest thereon, and funds are not on hand within thirty days after such default, ten owners of real estate in such district or the owners of not less than ten percent in amount of the outstanding drainage bonds of such district may make application to the district court of the county wherein said drainage district is located, asking for an extension of time of payment, and a reamortization of the assessments on the real estate within such drainage district, which was in default, and a new schedule of payments of the bonds and other indebtedness, and the issuance of new bonds as provided by this part.

[C35, §7714-f2; C39, §**7714.29;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.1]
89 Acts, ch 126, §2
CS89, §468.570
Referred to in §468.571

468.571 Petition.

Ten owners of real estate in such district, or the owners of not less than ten percent in amount of the outstanding drainage bonds of such drainage district, may institute proceedings in the district court of the county issuing such bonds wherein the drainage district is located, by filing a petition which shall set forth the names and addresses of the ten petitioning real estate owners or the names and addresses of the petitioning owners of ten percent in amount of the drainage bonds of said district, that said bonds are in default as defined in section 468.570, that the petitioners have good reason to believe that said default cannot, or will not, be removed by payment under the present schedule of said district, and asking that the matters herein presented be reviewed by the court, and determined as provided by this part.

[C35, §7714-f3; C39, §**7714.30;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.2]
89 Acts, ch 126, §2
CS89, §468.571

468.572 Hearing.

On the filing of such petition the court shall enter an order fixing the date for hearing, which date shall be at least four weeks subsequent to the date of the filing of the order.

[C35, §7714-f4; C39, §**7714.31;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.3]
89 Acts, ch 126, §2
CS89, §468.572

468.573 Parties — notice — service.

The board of supervisors of such county or counties wherein the drainage district is located, shall be notified of the proceeding and hearing by original notice served in the same manner as in civil actions; notice of said hearing shall be served upon all owners of each tract of land or lot within such drainage district, as shown by the transfer books in the county auditor's office, upon each lienholder or encumbrancer of any land within the said drainage district as shown by the county records, and upon all persons holding claims against said drainage district, as shown by the county records, and also upon all other persons whom it may concern, including bondholders and actual occupants of the land within said drainage district, without naming individuals, by publication thereof, once each week for two consecutive weeks, in some newspaper of general circulation in the county or counties where said drainage district is located, the last of which publications shall be not less than twenty days prior to the date set for hearing on the said petition and a copy of such notice shall also be sent by ordinary mail

to the person's last known address unless there is on file an affidavit of one of the petitioners or the petitioner's attorney stating that no mailing address is known and that diligent inquiry has been made to ascertain it. Such copy of notice shall be mailed not less than twenty days prior to the date set for hearing. Proof of publication and mailing shall be by affidavit and shall be included in the records of the proceedings.

[C35, §7714-f5; C39, §**7714.32;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.4]
89 Acts, ch 126, §2
CS89, §468.573
[P] Service of original notice, R.C.P. 1.302 – 1.315

468.574 Jurisdiction of court.

The district court shall have jurisdiction and power to adjudicate all the rights and issues between the drainage district, and the landowners, bondholders, lienholders, encumbrancers, claimants and creditors of the drainage district, and in determining the rights of the parties, shall take into consideration, the maturity of the bonds, the interest rate of the bonds, the present schedule and classification of assessments on the real estate, the ratio between the amount in default, and the amount of unpaid assessments in the drainage district, the gross amount needed to retire the bonds now outstanding and in default, the current retirement schedule on other indebtedness of the drainage district, the general tax structure of the drainage district, the unpaid taxes in the drainage district, the default by the drainage district in the payment of its bonded indebtedness, and the current financial condition of the taxpayers.

[C35, §7714-f6; C39, §**7714.33;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.5]
89 Acts, ch 126, §2
CS89, §468.574

468.575 Conservator appointed.

If the court finds that the necessary parties have instituted the proceedings, and that all necessary parties have been properly served with notice, and the order of the court, and that the drainage district is in default in the payment of its installment assessments, or the interest thereon, the court shall enter an order appointing the county auditor of the county in which such drainage district is located, or if such drainage district is located in more than one county, the county auditor of the county wherein the greater portion of the lands within said drainage district are located, receiver for the said drainage district, said receiver being hereafter called "conservator", and the said conservator shall be under the court's direction. The conservator shall be allowed such compensation as may be determined by the court, and said conservator may employ, under the direction and approval of the court, an attorney, and such assistants as may be necessary to perform the duties required by the conservator under the law, and orders of court.

[C35, §7714-f7; C39, §**7714.34;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.6]
89 Acts, ch 126, §2
CS89, §468.575

468.576 Report — hearing thereon.

The conservator shall, within thirty days from the date of the conservator's appointment, prepare and file with the clerk of the district court, a full report, giving in detail, the bonded indebtedness of said drainage district, the accrued interest thereon, and any and all other indebtedness owing by said drainage district; a full and complete schedule of all lands sold at tax sale, including the amount of drainage assessments thereon; a list of all real estate within the drainage district, showing the unpaid assessments thereon; also said conservator shall set forth a schedule, under which the bonded indebtedness of said drainage district may be reamortized; also a schedule under which all other indebtedness of said drainage district may be paid or reamortized. Upon the filing of the report by the conservator, the court shall

set a date for hearing thereon, which date shall not be less than ten or more than fifteen days, from the filing thereof.

[C35, §7714-f8; C39, §**7714.35;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.7]
89 Acts, ch 126, §2
CS89, §468.576

468.577 Adjudication on report.

At the hearing of the conservator's report, the court shall fix and determine the amount of money in the hands of the county treasurer belonging to the drainage district; the amount of the indebtedness of the drainage district; and to whom the indebtedness is due, and shall fix and determine the time, manner, and priority of payment of the indebtedness. The court shall fix and determine the amount of unpaid assessment or assessments against each tract of land within the drainage district, and may extend the time of payment, and reamortize and reallocate the assessments upon each tract of land within the drainage district. If the court finds that the assessments as levied against each tract of land within the drainage district are not sufficient to pay the indebtedness due and owing by the drainage district, the court may order the board of supervisors of the county within which the drainage district is located, to levy an assessment against the lands within the drainage district, in an amount to pay the deficit. However, assessment for the payment of drainage bonds or improvement certificates shall not be levied against any tract of land if the owner of the land is not delinquent in payment of any assessment. The amount of the reassessment on a particular piece of land shall be in direct proportion to the amount of unpaid assessments on the land. The assessment or expenses incidental thereto, for the payment of drainage bonds or improvement certificates under this part, shall not be levied against any tract of land if the owner of the land had previously paid all of the owner's assessment. The assessment shall be assessed and levied by the board of supervisors upon the lands within the drainage district, in the same proportion as the original assessment. A copy of the order entered by the court shall be filed by the clerk of the district court with the county auditor, and the schedule of payments of the indebtedness of the drainage district as fixed and determined by the court shall be entered upon the drainage records of the drainage district and also spread upon the tax records of the county, and shall become due and payable at the same time as ordinary taxes, and shall be collected in the same manner with the same interest for delinquency, and the same manner of enforcing collection by tax sale. The court may apportion the costs between the creditors of the drainage district and the drainage district.

[C35, §7714-f9; C39, §**7714.36;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.8]
89 Acts, ch 126, §2
CS89, §468.577
92 Acts, ch 1016, §39
Referred to in §468.578

468.578 Refunding bonds.

The court shall direct the board of supervisors to issue bonds in lieu of the outstanding drainage bonds for said drainage district, and additional bonds for the accrued interest and other indebtedness of said drainage district. Said bonds shall be payable in amounts, and at the time and manner, and with priority of payments as has been determined by order of court, as provided by section 468.577, and shall be called "conservator's drainage district bonds". Each bond shall be numbered and shall state on its face that it is a conservator's drainage district bond; that it is issued in pursuance of a resolution adopted by the board of supervisors, under order of court, and giving the name of the court and the county where such court is held; that it is issued to pay indebtedness of the drainage district; shall state the county where such district is located, and the number of the drainage district for which it is issued; shall state the date of maturity of the bond, the rate of interest thereon, which rate shall not exceed that permitted by chapter 74A, and that the bond is to be paid only from taxes assessed, levied and collected on the lands within the drainage district for which the bond is issued subject to the provisions of section 468.577. All bonds shall be signed by the chairperson of the board of supervisors and countersigned by the conservator designated as

such. The interest coupons attached to said bonds shall be attested by the signature of the conservator or a facsimile thereof. When the bonds have been executed as herein required, the conservator may sell said bonds at not less than par with accrued interest thereon, and pay the indebtedness of said drainage district, or may exchange said bonds with the creditors of said drainage district in amounts as have been fixed and determined by the court, and the conservator shall cancel all drainage bonds, improvement certificates, warrants or other evidence of indebtedness received by the conservator in lieu of the conservator's bonds.

[C35, §7714-f10; C39, §**7714.37;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.9]
89 Acts, ch 126, §2
CS89, §468.578

468.579 Lien.

When conservator's drainage district bonds are issued hereunder, nothing herein shall be construed as impairing the lien of all unpaid assessments upon the real estate within said drainage district, nor shall this part be construed as impairing the priority of the lien thereof, nor the right, duty and power of the officer authorized by law, to levy, collect and apply the proceeds thereof, to the payment of outstanding drainage bonds issued in anticipation of the collection thereof.

[C35, §7714-f11; C39, §**7714.38;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.10]
89 Acts, ch 126, §2
CS89, §468.579

468.580 Trustees as parties.

Should a drainage district in default be managed by drainage district trustees, said trustees shall also be named as proper and necessary parties defendant.

[C35, §7714-f12; C39, §**7714.39;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.11]
89 Acts, ch 126, §2
CS89, §468.580

468.581 Limitation of action.

No action shall be brought, questioning the validity of any conservator's drainage district bond issued under this part from and after three months from the date of the order causing the said bonds to be issued.

[C35, §7714-f13; C39, §**7714.40;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §464.12]
89 Acts, ch 126, §2
CS89, §468.581
[P] Similar provisions, §468.377, 468.562

468.582 through 468.584 Reserved.

PART 3

FUNDING OF COUNTY DRAINAGE DISTRICTS

468.585 Definitions.

As used in this part, unless the context otherwise requires:

1. *"Drainage improvement"* includes the construction, improvement, or repair of the principal structures, works, component parts and accessories of a storm sewer, drainage conduit, channel, or levee for the collection, detention, or discharge of drainage or surface waters.

2. *"Urban drainage district"* or *"district"* means a district defined by a county and one or more cities within the county pursuant to an agreement entered into by the county and cities in accordance with chapter 28E and this part with respect to drainage improvements which

the county and cities determine benefit the property located in the cities and the designated unincorporated area of the county.

3. *"Cost"* means the same as defined in section 384.37, subsection 26.

85 Acts, ch 144, §1
CS85, §331.485
89 Acts, ch 126, §2
CS89, §468.585

468.586 Assessment of costs of drainage improvements.

A county may assess to property within an urban drainage district the cost of a drainage improvement within the county and drainage facilities extending outside the county. A county is empowered to proceed and construct and to assess the cost of a drainage improvement within a district in the same manner as a city may proceed under chapter 384, division IV, and the provisions of chapter 384, division IV, apply to counties with respect to drainage improvements, the assessment of their costs and the issuance of bonds for the improvements. A county may contract for a drainage improvement within a district under this part pursuant to chapter 331, division III, part 3.

85 Acts, ch 144, §1
CS85, §331.486
89 Acts, ch 126, §2
CS89, §468.586
2011 Acts, ch 25, §59

468.587 Special assessment bonds.

A county may issue special assessment bonds in anticipation of the collection of special assessments for the cost of drainage improvements within a district in the same manner as provided for cities under division IV of chapter 384.

85 Acts, ch 144, §1
CS85, §331.487
89 Acts, ch 126, §2
CS89, §468.587

468.588 Chapter 28E agreement.

An agreement entered into between a city and a county in accordance with chapter 28E with respect to a drainage improvement may include among others the following provisions:

1. The sharing of the total cost of the drainage improvement between the city and the county.
2. The amount of total assessments against private property within the city and within the unincorporated area of the county included within the district.
3. The method of specially assessing and determining benefits.
4. The amount of funds, if any, to be contributed by the city and county to the project other than special assessments.
5. The rates to be established and imposed upon property within the drainage district to pay the expenses of operation and maintenance of the drainage improvements.
6. The reduction of the county's debt service tax levy rate against property within a city which is a party to the joint agreement.

85 Acts, ch 144, §1
CS85, §331.488
89 Acts, ch 126, §2
CS89, §468.588

468.589 Rates and charges for services and connection.

If a county and city have entered into an agreement pursuant to chapter 28E to create an urban drainage district, the county or city or both may, to the extent and in the manner provided in the agreement, establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance

of a drainage improvement against property within the district and establish, impose, adjust, and provide for the collection of charges for connection to a drainage improvement. Rates and charges must be established by ordinance of the governing body of the county or city imposing the rates or charges. Rates or charges for the services of and connection to the drainage improvement if not paid as provided by the ordinance of the governing body, are a lien upon the premises served or benefited by that improvement and may be certified to the county treasurer and collected in the same manner as other taxes.

85 Acts, ch 144, §1
CS85, §331.489
89 Acts, ch 126, §2
CS89, §468.589
93 Acts, ch 73, §13
Referred to in §445.1

468.590 Cities subject to debt service tax levy — rates.

If a county and city have entered into a joint agreement pursuant to chapter 28E to create a district and issue county general obligation bonds to fund the costs of a drainage improvement in that district, the county's debt service tax levy for the county general obligation bonds shall not be levied against property located in any city except a city which has entered into the joint agreement.

The county and the cities entering into the joint agreement may provide in the joint agreement for a different rate of the county's debt service tax levy against property in unincorporated areas of the county and property within those cities.

85 Acts, ch 144, §1
CS85, §331.490
89 Acts, ch 126, §2
CS89, §468.590

468.591 Authority.

The authority of a city or county under this part with respect to districts and the financing of drainage improvements is in addition to any other authority of a city or county to contract, and levy special assessments and issue bonds to fund the costs.

85 Acts, ch 144, §1
CS85, §331.491
89 Acts, ch 126, §2
CS89, §468.591

468.592 through 468.599 Reserved.

SUBCHAPTER V

INDIVIDUAL DRAINAGE RIGHTS

Referred to in §327G.81, 331.382, 331.502, 468.3, 468.397

468.600 Drainage through land of others — application.

When the owner of any land desires to construct any levee, open ditch, tile or other underground drain, for agricultural or mining purposes, or for the purposes of securing more complete drainage or a better outlet, across the lands of others or across the right-of-way of a railroad or highway, or when two or more landowners desire to construct a drain to serve their lands, the landowner or landowners may file with the auditor of the county in which any such land or right-of-way is situated, an application in writing, setting forth a description of the land or other property through which the landowner is desirous of constructing any such

levee, ditch, or drain, the starting point, route, terminus, character, size, and depth thereof. The auditor shall collect a fee of one dollar for filing each application for a ditch or drain.

[C73, §1217; C97, §1955; S13, §1955; C24, 27, 31, 35, 39, §**7715;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.1]

89 Acts, ch 126, §2

CS89, §468.600

468.601 Notice of hearing — service.

Upon the filing of any such application, the auditor shall forthwith fix a time and place for hearing thereon before the county board of supervisors, which hearing shall be not more than ninety days nor less than thirty days from the time of the filing of such application, and cause notice in writing to be served upon the owner of each tract of land across which any such levee, ditch, or drain is proposed to be located, as shown by the transfer books in the office of the county auditor, and also upon the person in actual occupancy of any such lands, of the pendency and prayer of such application and the time and place set for hearing on the same before the board of supervisors, which notice, as to residents of the county and railroad companies, shall be served not less than ten days before the time set for such hearing, in the manner that original notices are required to be served. Notice to a railroad company may be served upon any station agent.

[C73, §1218; C97, §1955; S13, §1955; C24, 27, 31, 35, 39, §**7716;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.2]

89 Acts, ch 126, §2

CS89, §468.601

[P] Manner of service, R.C.P. 1.302 – 1.315

468.602 Service upon nonresident.

In case any such owner is a nonresident of the county the owner may be personally served in the manner required for original notices or, in lieu thereof, the owner may be given notice as provided in section 468.15.

[C73, §1218; C97, §1955; S13, §1955; C24, 27, 31, 35, 39, §**7717;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.3]

89 Acts, ch 126, §2

CS89, §468.602

468.603 Service on omitted parties — adjournment.

If at the hearing it should appear that any person entitled to notice has not been served with notice, the board may postpone such hearing and fix a new time for the same, and notice of such new time of hearing may be served on such omitted persons in the manner and for the time provided by law and by fixing such new time for hearing and by adjournment to such time, the board shall not lose jurisdiction of the subject matter of such proceeding nor of any persons previously served with notice.

[S13, §1955; C24, 27, 31, 35, 39, §**7718;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.4]

89 Acts, ch 126, §2

CS89, §468.603

468.604 Claims for damages — waiver.

Any person or corporation claiming damages or compensation for or on account of the construction of any such improvement, shall file a claim in writing therefor with the auditor at or before the time fixed for hearing on the application. A failure to file such claim at the time specified shall be deemed to be a waiver of the right to claim or recover such damage.

[S13, §1955; C24, 27, 31, 35, 39, §**7719;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.5]

89 Acts, ch 126, §2

CS89, §468.604

468.605 Hearing — sufficiency of application — damages.

At the time set for hearing on the application, if the board shall find that all necessary parties have been served with notice as required, they shall proceed to hear and determine the sufficiency of the application as to form and substance, which application may be amended both as to form and substance before final action thereon. They shall also determine the merits of the application, all objections thereto, and all claims filed for damages or compensation, and may view the premises. The board may adjourn the proceedings from day to day, but no adjournment shall be for a longer period than ten days.

[C73, §1219; C97, §1956; S13, §1956; C24, 27, 31, 35, 39, §**7720;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.6]

89 Acts, ch 126, §2

CS89, §468.605

468.606 Shall locate when — specifications.

If the supervisors find that the levee, ditch, or drain petitioned for will be beneficial for sanitary, agricultural, or mining purposes, they shall locate the same and fix the points of entrance and exit on such land or property, the course of the same through each tract of land, the size, character, and depth thereof, when and in what manner the same shall be constructed, how kept in repair, what connections may be made therewith, what compensation, if any, shall be made to the owners of such land or property for damages by reason of the construction of any such improvements, and any other question arising in connection therewith.

[C73, §1220; C97, §1956; S13, §1956; C24, 27, 31, 35, 39, §**7721;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.7]

89 Acts, ch 126, §2

CS89, §468.606

468.607 Findings — record.

The board shall reduce its findings, decision, and determination to writing, which shall be filed with the auditor, who shall record it in the official record of the board's proceedings, together with the application and all other papers filed in connection therewith, and the auditor shall cause the findings and decision of the board to be recorded in the office of the recorder of the county in which such land is situated and said decision shall be final unless appealed from as provided in section 468.608.

[C73, §1220; C97, §1956; S13, §1956; C24, 27, 31, 35, 39, §**7722;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.8]

89 Acts, ch 126, §2

CS89, §468.607

468.608 Appeal — notice.

Either party may appeal to the district court from any such decision by causing to be served, within ten days from the time it was filed with the auditor, a notice in writing upon the opposite party of the taking of such appeal, which notice shall be served in the same manner as is provided for the service of original notices. If the appellant is the party petitioning for the drain, the appellant shall also file a bond, conditioned to pay all costs of appeal that may be assessed against the appellant, which bond, if good and sufficient, shall be approved by the auditor.

[C73, §1223; C97, §1957; C24, 27, 31, 35, 39, §**7723;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.9]

89 Acts, ch 126, §2

CS89, §468.608

Referred to in §468.607, 468.631

[P] Manner of service, R.C.P. 1.302 – 1.315

[P] Presumption of approval of bond, §636.10

468.609 Transcript.

In case of appeal, the auditor shall certify to the district court a transcript of the proceedings before the board, which shall be filed in said court with the appeal bond, the party appealing paying for said transcript and the docketing of said appeal, as in other cases.

[C97, §1958; C24, 27, 31, 35, 39, §**7724;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.10]
89 Acts, ch 126, §2
CS89, §468.609
Referred to in §468.631

468.610 Appeal — how tried — costs.

The cause shall be tried in the district court by ordinary proceedings, upon such pleading as the court may direct, each party having the right to offer such testimony as shall be admissible under the rules of law. If the appellant does not recover a more favorable judgment in the district court than the appellant received in the decision of the board, the appellant shall pay all the costs of appeal.

[C97, §1957; C24, 27, 31, 35, 39, §**7725;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.11]
89 Acts, ch 126, §2
CS89, §468.610
Referred to in §468.631

468.611 Parties — judgment — orders.

The party claiming damages shall be the plaintiff and the applicant shall be the defendant; and the court shall render such judgment as shall be warranted by the verdict, the facts, and the law upon all the matters involved, and make such orders as will cause the same to be carried into effect.

[C73, §1224; C97, §1958; C24, 27, 31, 35, 39, §**7726;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.12]
89 Acts, ch 126, §2
CS89, §468.611

468.612 Costs and damages — payment.

The applicant shall pay the costs of the board and auditor and for the serving of notices for hearing, the fees of witnesses summoned by the board on said hearing, and the recording of the finding of the board by the county recorder.

[C73, §1221; C97, §1959; S13, §1959; C24, 27, 31, 35, 39, §**7727;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.13]
89 Acts, ch 126, §2
CS89, §468.612
[P] Service of notice fees, §331.655(1)
[P] Witness fees, §622.69 – 622.75

468.613 Construction.

Before entering on the construction of the drain, the party applying therefor shall pay to the party through whose land said drain is to be constructed the damages awarded to that party, or shall pay the same to the board for that party's use. The applicant may proceed to construct said drain in accordance with the decision of the board, and the taking of an appeal shall not delay such work.

[C97, §1959; S13, §1959; C24, 27, 31, 35, 39, §**7728;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.14]
89 Acts, ch 126, §2
CS89, §468.613

468.614 Construction through railroad property.

If any such ditch or drain shall be located through or across the right-of-way or other land of a railroad company, the board shall determine the cost of constructing the same and the railroad company shall have the privilege of constructing such improvement through its property in accordance with the specifications made by the board and recover the costs

thereof as fixed by the board. Such railroad company before it may exercise such privilege shall file its election to that effect with the auditor within five days after the decision of the board is filed.

[S13, §1959; C24, 27, 31, 35, 39, §**7729;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.15]
89 Acts, ch 126, §2
CS89, §468.614

468.615 Deposit.

In case such election is filed the applicant shall within ten days thereafter pay to the auditor, for the use of the railroad company, the cost of constructing the drainage improvement through its property, in addition to the amount that may be allowed as damages, and when the railroad company shall have completed the improvement through its property in accordance with such specifications it shall be entitled to demand and receive from the auditor such cost.

[S13, §1959; C24, 27, 31, 35, 39, §**7730;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.16]
89 Acts, ch 126, §2
CS89, §468.615

468.616 Failure to construct.

If the railroad company shall fail to so construct the improvement for a period of thirty days after filing its election so to do, the applicant may proceed to do so and may have returned to the applicant the cost thereof deposited with the auditor.

[S13, §1959; C24, 27, 31, 35, 39, §**7731;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.17]
89 Acts, ch 126, §2
CS89, §468.616

468.617 Repairs.

In case any dispute shall thereafter arise as to the repair of any such drain, the same shall be determined by the county board of supervisors upon application in substantially the same manner as in the original construction thereof.

[C73, §1226; C97, §1960; C24, 27, 31, 35, 39, §**7732;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.18]
89 Acts, ch 126, §2
CS89, §468.617

468.618 Obstruction.

Any person who shall dam up, obstruct, or in any way injure any ditch or drain so constructed, shall be liable to pay to the person owning or possessing the swamp, marsh, or other lowlands, for the draining of which such ditch or ditches have been opened, double the damages that shall be sustained by the owner, and, in case of a second or subsequent offense by the same person, treble such damages.

[C73, §1227; C97, §1961; C24, 27, 31, 35, 39, §**7733;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.19]
89 Acts, ch 126, §2
CS89, §468.618

468.619 Drains on abutting boundary lines.

When any watercourse or natural drainage line crosses the boundary line between two adjoining landowners and both parties desire to drain their land along such watercourse or natural drainage line, but are unable to agree as to the junction of the lines of drainage at such boundary line, the board of supervisors of the county in which said land is located shall have full power and authority upon the application of either party to hear and determine all questions arising between such parties after giving due notice to each of the time and place

of such hearing, and may render such decision thereon as to said board shall seem just and equitable.

[C97, §1962; C24, 27, 31, 35, 39, §**7734;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.20]
89 Acts, ch 126, §2
CS89, §468.619
Referred to in §468.620

468.620 Boundary between two counties.

If any controversy referred to in section 468.619 relates to a boundary line between adjoining owners which is also the boundary line between two counties, then such controversy shall be determined by the joint action of the boards of supervisors in said two adjoining counties, and all the proceedings shall be the same as provided in section 468.619 except that it shall be by the joint action of the boards of the two counties.

[C24, 27, 31, 35, 39, §**7735;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.21]
89 Acts, ch 126, §2
CS89, §468.620

468.621 Drainage in course of natural drainage — reconstruction — damages.

Owners of land may drain the land in the general course of natural drainage by constructing or reconstructing open or covered drains, discharging the drains in any natural watercourse or depression so the water will be carried into some other natural watercourse, and if the drainage is wholly upon the owner's land the owner is not liable in damages for the drainage unless it increases the quantity of water or changes the manner of discharge on the land of another. An owner in constructing a replacement drain, wholly on the owner's land, and in the exercise of due care, is not liable in damages to another if a previously constructed drain on the owner's own land is rendered inoperative or less efficient by the new drain, unless in violation of the terms of a written contract. This section does not affect the rights or liabilities of proprietors in respect to running streams.

[S13, §1989-a53; C24, 27, 31, 35, 39, §**7736;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.22]
87 Acts, ch 225, §306; 89 Acts, ch 126, §2
CS89, §468.621

468.622 Drainage connection with highway.

When the course of natural drainage of any land runs to a public highway, the owner of such land shall have the right to enter upon such highway for the purpose of connecting the owner's drain or ditch with any drain or ditch constructed along or across the said highway, but in making such connections, the owner shall do so in accordance with specifications furnished by the highway authorities having jurisdiction thereof, which specifications shall be furnished to the owner on application. The owner shall leave the highway in as good condition in every way as it was before the said work was done.

If a tile line or drainage ditch must be projected across the right-of-way to a suitable outlet, the expense of both material and labor used in installing the tile line or drainage ditch across the highway and any subsequent repair thereof shall be paid from funds available for the highways affected.

[C97, §1963; C24, 27, 31, 35, 39, §**7737;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.23]
89 Acts, ch 126, §2
CS89, §468.622

468.623 Private drainage system — record.

1. Any person who has provided a system of drainage on land owned by the person may have the same made a matter of record in the office of the county recorder of the county in which the drainage system is located, provided any drainage system constructed after July 1, 1969, shall be made a matter of record. The record shall contain the applicable entries specified in sections 558.49 and 558.52.

2. Records under subsection 1 may be used to give the owner's name, description of tracts

of land drained, stating the time when the drainage system was established, the kind, quality, and brand of tile used, the name and place of the manufacturing plant, the name of contractors who laid the tile, the name of the engineer in charge of the survey and installation, the cost of tile, delivery, installation, and engineering expense, depths, grades, outlets, connections, contracts for agreements with adjoining landowners as to connections, and any other matters or information that may be considered of value, and such information may be furnished by the landowner or the engineer having charge of the installation and certified to under oath.

[C24, 27, 31, 35, 39, §**7738;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.24]
89 Acts, ch 126, §2
CS89, §468.623
2009 Acts, ch 27, §24
Referred to in §331.607, 468.628

468.624 and 468.625 Repealed by 2009 Acts, ch 27, § 39.

468.626 Original plat filed.

In lieu of making the record as herein provided any landowner may file with the county recorder the original plat used in the establishment of the drainage system, or a copy of the plat, which shall be certified by the engineer having made the same. If practicable, a plat filed under this section shall be made a matter of record and shall contain the applicable entries specified in sections 558.49 and 558.52.

[C24, 27, 31, 35, 39, §**7741;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.27]
89 Acts, ch 126, §2
CS89, §468.626
2009 Acts, ch 27, §25
Referred to in §468.628

468.627 Record not part of title.

The drainage records herein provided for shall not be construed as an essential part of the title to said lands, but may upon request be set out by abstracters as part of the record title of said lands.

[C24, 27, 31, 35, 39, §**7742;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.28]
89 Acts, ch 126, §2
CS89, §468.627

468.628 Fees for recording.

When information is filed with the county recorder pursuant to section 468.623 or 468.626, the recorder shall collect recording fees in the amounts specified in section 331.604.

[C24, 27, 31, 35, 39, §**7743;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.29]
89 Acts, ch 126, §2
CS89, §468.628
2009 Acts, ch 27, §26

468.629 Lost records — hearing.

When the records of any mutual drain are incomplete or have been lost, or when the owner of any land affected by such mutual drain believes that the apportionment of costs or damages is inequitable or that repair or reconstruction is needed, such owner may petition the board of supervisors for relief. The board shall notify all affected parties of such petition, and set a date for a hearing on the petition. The board may adjourn the proceedings from day to day, but no adjournment shall be for more than ten days, and may order such engineering examinations, reclassifications of lands and appraisals of damages as they deem necessary. At the completion of the hearing the supervisors shall reestablish the original records or establish a revised record and basis for apportionment of costs and damages as they find equitable and advisable, and may order such repairs or reconstruction as they find to be

needed. All cost of such reestablishment or revisions of records, and of the needed repair or reconstruction shall be apportioned in accordance with the basis established.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.30]
89 Acts, ch 126, §2
CS89, §468.629
Referred to in §468.630

468.630 Mutual drains — establishment as district.

Whenever a landowner fails to pay the cost apportioned as provided in section 468.629, or whenever a repair or reconstruction ordered as provided in said section is not made within reasonable time, and in such other instances as the board of supervisors desires, the board by resolution shall establish such mutual drain as a drainage district; all proceedings thereafter shall be as provided for other legally established districts.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.31]
89 Acts, ch 126, §2
CS89, §468.630
Referred to in §468.631

468.631 Appeal.

The decisions and actions of the board of supervisors under section 468.630 may be appealed as provided in sections 468.608 through 468.610.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.32]
89 Acts, ch 126, §2
CS89, §468.631

468.632 Record filed with established district.

When the lands served by a mutual drain are within the boundary of an established drainage district, a complete record of the proceeding relating to such mutual drain shall be filed with and as a part of, the records of such established district.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.33]
89 Acts, ch 126, §2
CS89, §468.632
Referred to in §468.633

468.633 Lost or incomplete records.

If the records referred to in section 468.632 are incomplete or have been lost, the board may reestablish such records so as to proportion future costs and damages in proportion to the benefits and damages received because of the construction of such mutual drains and improvements thereof, and may order such surveys, engineering reports, reclassification of lands and appraisal of damages as they deem necessary. All costs of such proceedings shall be assessed against the benefited lands.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.34]
89 Acts, ch 126, §2
CS89, §468.633
Referred to in §468.634

468.634 Petition to combine with established district.

Upon receipt of a petition, signed by the owners of the lands served by a mutual drain, requesting that such drain be combined with an established drainage district, the board shall hold a hearing with due notice to the owners of all lands affected by said mutual drain, and if the board finds it desirable it may by resolution make such mutual drains a part of the established district. Such hearing and resolution may be continued as the board deems necessary for the collection of additional information as provided in section 468.633. Such combination with an established district shall constitute dissolution of the mutual drain, and

shall be so recorded, after which such mutual drain shall be a part of the district drain in all respects.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §465.35]
89 Acts, ch 126, §2
CS89, §468.634