

January 11, 1961.
Drainage and Flood Control.

House File 3
By FISHER of Greene.

Passed House, Date 2-2-61 Passed Senate, Date 4-10-61
Vote: Ayes 97 Nays 5 Vote: Ayes 46 Nays 0

Approved 4-12-61
House Concurred - 4/11/61 = 98-0

A BILL FOR

An Act to amend chapter four hundred sixty-seven A (467A), Code 1958, relating to an alternate method of taxation of landowners within subdistricts for the purpose of carrying out watershed protection and flood-prevention programs.

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

- 1 Chapter four hundred sixty-seven A (467A), Code 1958, is
- 2 amended by adding the following new sections at the end
- 3 thereof:
- 4 Section 1. After obtaining agreements to carry out
- 5 recommended soil conservation measures and proper farm plans
- 6 from owners of not less than fifty per cent of the lands situated
- 7 in the subdistrict, the governing body shall have the authority
- 8 to establish a special tax for the purpose of organization,
- 9 construction, repair, alteration, enlargement, extension and
- 10 operation of present and future works of improvement within
- 11 the boundaries of said subdistrict. The governing body shall
- 12 appoint three appraisers to assess benefits and classify the land
- 13 affected by such improvements. One of such appraisers shall be
- 14 a competent professional engineer and two of them shall be
- 15 resident landowners of the county or counties in which the
- 16 subdistrict is located but not living within nor owning or
- operating any lands included in said subdistrict.
- The appraisers shall take and subscribe an oath of their
- qualifications and to perform the duties of classification of said

17 lands, fix the percentages, benefits and apportion and assess
18 the costs and expenses of construction of the said improvement
19 according to law and their best judgment, skill, and ability.
20 If said appraisers or any of them fail or neglect to act or perform
21 the duties in the time and as required of them by law, the
22 commissioners shall appoint others with like qualifications to
23 take their places and perform said duties.

1 Sec. 2. At the time of appointing said appraisers, the
2 governing body shall fix the time within which said assessment,
3 classification, and apportionment shall be made, which may be
4 extended for good cause shown. Within twenty days after their
5 appointment, they shall begin to inspect and classify all the
6 lands within said district, or any change, extension, enlargement,
7 or relocation thereof in tracts of forty acres or less according to
8 the legal or recognized subdivisions, in a graduated scale of
9 benefits to be numbered according to the benefit to be received
10 by each of such tracts from such improvement, and pursue said
11 work continuously until completed and, when completed, shall make
12 a full, accurate, and detailed report thereof and file the same with
13 the governing body. The lands receiving the greatest benefit shall
14 be marked on a scale of one hundred, and those benefited in a less
15 degree with such percentage of one hundred as the benefits
16 received bear in proportion thereto.

17 The amount of benefit appraised to each forty acres of land
18 within the watershed shall be determined by the improvements
19 within said watershed based upon the work plan as agreed upon by
20 the subdistrict and furnished by the United States soil
21 conservation service.

1 Sec. 3. In the report of the appraisers so appointed they shall

2 specify each tract of land by proper description, and the
3 ownership thereof, as the same appears on the transfer books
4 in the auditor's office.

1 Sec. 4. The governing body shall fix a time for a hearing
2 within sixty days upon receiving the report of the appraisers,
3 and the governing body shall cause notice to be served upon
4 each person not less than ten days before said hearing whose
5 name appears as owner, naming him, and also upon the person
6 or persons in actual occupancy of any tract of land without
7 naming him of the day and hour of such hearing, which notice
8 shall be for the same time and served in the same manner as is
9 provided for the establishment of a subdistrict, and shall state
10 the amount of assessment of costs and expenses of organizing
11 and construction apportioned to each owner upon each forty-acre
12 tract or less, and that all objections thereto must be in writing
13 and filed with the governing body at or before the time set for
14 such hearing.

1 Sec. 5. At the time fixed or at an adjourned hearing, the
2 governing body shall hear and determine all objections filed to
3 said report and shall fully consider the said report, and may
4 affirm, increase, or diminish the percentage of benefits or the
5 apportionment of costs and expenses made in said report against
6 any body or tract of land in said subdistrict as may appear to the
7 board to be just and equitable.

1 Sec. 6. Any person aggrieved may appeal from any final action
2 of the governing body in relation to any matter involving his
3 rights, to the district court of the county in which the proceeding
4 was held.

1 Sec. 7. In subdistricts extending into two or more counties,

2 appeals from final orders resulting from the joint action of the
3 several governing bodies of such subdistrict may be taken to the
4 district court of any county into which the district extends.

1 Sec. 8. All appeals shall be taken within twenty days after
2 the date of final action or order of the governing body from which
3 such appeal is taken by filing with the auditor a notice of appeal,
4 designating the court to which the appeal is taken, the order or
5 action appealed from, and stating that the appeal will come on
6 for hearing at the next succeeding term of the court and
7 designating such term. This notice shall be accompanied by an
8 appeal bond with sureties to be approved by the auditor
9 conditioned to pay all costs adjudged against the appellant and
10 to abide the orders of the court.

1 Sec. 9. On or before the first day of the next succeeding
2 term of court, the appellant shall file a petition setting forth
3 the order or final action of the governing body appealed from
4 and the grounds of his objections and his complaint, with a copy
5 of his claim for damages or objections filed by him with the
6 auditor. He shall pay to the clerk the filing fee as provided by
7 law in other cases. A failure to pay the filing fee or to file such
8 petition shall be deemed a waiver of the appeal and in such case
9 the court shall dismiss the same.

1 Sec. 10. When the board or boards of supervisors shall
2 receive a certification from the governing body of the district to
3 make the necessary assessment on the real estate within the
4 boundaries of the subdistrict lying within their respective
5 county, this shall be construed as final action by the governing
6 body.

1 Sec. 11. The governing body upon receiving the reports from

2 three appointed appraisers and after holding the hearings shall
3 transmit and certify the amounts of assessments to the respective
4 boards of supervisors which upon receipt of certification from
5 the governing body of the district, make the necessary levy of
6 such assessments as fixed by the governing body upon the land
7 within such subdistrict and all assessments shall be levied at
8 that time as a tax and shall bear interest at not more than four
9 per cent per annum from that date payable annually except as
10 hereafter provided as to cash payments therefor within a specified
11 time. The assessments so levied shall be kept in a separate
12 account by the appropriate county treasurer or treasurers,
13 identified by the official name of the subdistrict and expenditures
14 therefrom shall be made on requisition of the chairman and
15 secretary of the governing body of the subdistrict.

16 At no time will an assessment be made where the benefits
17 accrued to the subdistrict do not exceed the cost of the
18 improvements within the said subdistrict.

1 Sec. 12. All assessments for benefits shall be levied at one
2 time against the property benefited and when levied and certified
3 by the board or boards of supervisors shall be paid at the office
4 of the county treasurer. Each person or corporation shall have
5 the right within twenty days after the levy of assessments to pay
6 his or its assessment in full without interest.

7 If any levy of assessments is not sufficient to meet the cost
8 and expenses of organizing and construction apportioned to each
9 owner upon each forty-acre tract or less, additional assessments
10 may be made on the same classification as the previous ones.

1 Sec. 13. If the owner of any premises against which a levy
2 exceeding twenty dollars has been made and certified shall,

3 within thirty days from the date of such levy, agree in writing
4 in a separate agreement, that in consideration of having a right
5 to pay his assessment in installments, he will not make any
6 objection as to the legality of his assessment for benefit, or
7 the levy of the taxes against his property, then such owner shall
8 have the following options:

9 1. To pay one-third of the amount of such assessment at the
10 time of filing such agreement; one-third within twenty days after
11 the engineer in charge shall certify to the auditor that the
12 improvement is one-half completed; and the remaining one-third
13 within twenty days after the improvement has been completed and
14 accepted by the board. All such installments shall be without
15 interest if paid at said times, otherwise said assessments shall
16 bear interest from the date of the levy at the rate of four per cent
17 per annum, payable annually, and be collected as other taxes on
18 real estate, with like penalty for delinquency.

19 2. To pay such assessments in not less than ten nor more than
20 twenty equal installments, the number to be fixed by the governing
21 board and interest at the rate fixed by the governing body, not
22 exceeding four per cent per annum. One such installment shall
23 be payable at the October semi-annual taxpaying date in each
24 year; provided, however, that the county treasurer shall, at the
25 October semi-annual taxpaying date, require only the payment of
26 a sufficient portion of the assessments to meet the interest and
27 the amount accruing on improvements completed prior to the
28 regular time for the payment of the second installment of taxes
29 and the balance shall be collected with such second installment
30 and without penalty.

1 Sec. 14. When an owner takes an appeal from the assessment

2 against any of his land, the option to pay in installments
3 whatever assessment is finally established against such land in
4 said appeal shall continue, if within twenty days after the final
5 determination of said appeal he shall file in the office of the
6 auditor his written election to pay in installments, and within
7 said period pay such installments as would have matured prior
8 to that time if no appeal had been taken, together with all
9 accrued interest on said assessment to the last preceding
10 interest-paying date.

1 Sec. 15. A classification of land for watershed purposes,
2 when finally adopted, shall remain the basis of all future
3 assessments for the purpose of said subdistrict, except as
4 provided in section sixteen.

1 Sec. 16. After a subdistrict has been established and the
2 improvements thereof constructed and put in operation, if the
3 governing body shall find that the original assessments are not
4 equitable as a basis for the expenses of any enlargement or
5 extension thereof which may have become necessary, they shall
6 order a new classification of all lands in said subdistrict by
7 resolution, and appoint three appraisers, which shall meet the
8 same requirements as set forth in section one.

9 Upon the completion of the reclassification, those affected
10 by such reclassification shall have the right to appeal as
11 hereinabove set forth.

1 Sec. 17. Assessments for repair, alteration, enlargement,
2 extension, and operation of works of improvement within the
3 watershed district shall be a benefit to the entire subdistrict
4 and levied as such.

1 Sec. 18. Persons appointed to appraise and make

2 classifications of lands shall receive such compensation as the
 3 governing body may fix and in addition thereto, the necessary
 4 expenses of transportation of said persons while engaged in
 5 their work; such compensation and expenses shall be construed
 6 as part of the cost of the subdistrict which shall be included
 7 when considering classifications of lands within a subdistrict.

1 Sec. 19. Any subdistrict organized before July 4, 1961, may
 2 within two years from the effective date of the foregoing alternate
 3 taxing method, elect to use the same and divert any moneys
 4 already collected for use under sections four hundred sixty-seven
 5 A point thirteen (467A.13) to four hundred sixty-seven A point
 6 twenty (467A.20), inclusive, for the purposes authorized in this
 7 act.

EXPLANATION OF HOUSE FILE 3

The special annual tax section 467A.13 to 467A.20. Code 1958, relating to taxing land-owners within subdistricts on an equal basis has been found to be inadequate for certain watershed programs; the soil conservation district commissioners of Iowa and the state soil conservation committee has concluded that an alternate taxation method based upon benefits received would be more desirable in some areas in carrying out watershed programs. Therefore, it is hereby requested that the alternate plan be passed and adopted.

HOUSE FILE 3

1 Amend House File 3, section one (1), line eleven (11) by inserting
 2 after the word "competent" the word "registered".

Filed January 31, 1961. *accepted 2-2-61* COMMITTEE ON DRAINAGE AND FLOOD CONTROL, W. S. LYNES, *Chairman.*

HOUSE FILE 3

1 Amend House File 3, section 19, by inserting in line 6
 2 after "inclusive," the following: "Code 1958,".

Filed March 28, 1961.

House Concurred 4-11

accepted 4-10-61

By WALKER.