

January 17, 1963.  
Passed on File.  
*Conservative 1/17*

*Senate concurred in  
House concurred in  
as amended 5/9*

**Senate File 19**

By COWDEN, NOLAN  
and SHOEMAN.

Passed Senate, Date... *2-20-63*...

*Referred Conservation 2/26*  
Passed House, Date... *4-30-63*...

Vote: Ayes... *23*... Nays... *17*...

Vote: Ayes... *64*... Nays... *6*...

Approved.....

*amended by House  
concurring by Senate  
aprs 27 Reg 20*

*Pass as amended  
4/11*

*Reconsider Vote 5/9 5/9*

# A BILL FOR

*Vote: -amended by Senate  
5/10 concurred by House  
aprs 66 - nays 24*

An Act to provide for establishment of water recreational areas and facilities normally associated therewith.

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

- 1 Chapter one hundred eleven (111), Code 1962, is amended by
- 2 adding the following sections:

## WATER RECREATIONAL AREAS

- 1 Section 1. Powers in municipalities. Municipalities, or
- 2 individuals or corporations organized for that purpose only,
- 3 acting separately or in conjunction with each other, may estab-
- 4 lish water recreational areas and when established without the
- 5 support of public funds of the state of Iowa, the municipalities,
- 6 corporations or individuals establishing the same, as the case
- 7 may be, shall have control thereof independently of the execu-
- 8 tive council.

- 1 Sec. 2. Application for permit. Any municipality, corpora-
- 2 tion or individual seeking to establish a water recreational
- 3 area without public funds of the state of Iowa shall file with
- 4 the state conservation commission a verified petition asking for
- 5 a permit to establish a water recreational area.

- 1 Sec. 3. Petition. Said petition shall state:

- 2 1. The name of the municipality, corporation or individuals
- 3 asking for said permit.
- 4 2. The applicants principal office and place of business.

5 3. A legal description of the lands to be included within  
6 said water recreational area, together with a map thereof.

7 4. A general description of the public and private highways,  
8 grounds and real estate, streams and private lands of any kind  
9 within said area.

10 5. The tentative locations, types of dams to be constructed  
11 for any artificial lakes to be established, the proposed area  
12 to be inundated by the waters to be impounded by said dams, and  
13 a map showing the location of said dams and areas to be inun-  
14 dated.

15 6. A map showing the location of proposed roads, fixtures,  
16 utilities and other facilities necessary in the operation of  
17 said water recreational area.

18 7. The proposed plan of operation and regulations for the  
19 use of said facilities by the public.

20 8. A copy of the petition will also be filed with the Iowa  
21 natural resources council for approval in event said proposal  
22 might affect flood control in any manner.

1 Sec. 4. Hearing—notice. On the filing of said petition the  
2 state conservation commission shall fix a date for hearing  
3 thereon and shall cause notice thereof to be published in some  
4 newspaper of general circulation in each county in which said  
5 proposed water recreational area will be established, said notice  
6 to be published for two consecutive weeks.

1 Sec. 5. Time and place. Said hearing shall not be less  
2 than ten (10) days nor more than thirty (30) days from the date  
3 of the last publication and shall be held in the office of the  
4 state conservation commission or such place as the commission  
5 shall decide.

1     Sec. 6. Objections. Any person, corporation, company, city  
2 or town whose rights or interests may be affected by said pro-  
3 posed water recreational area may file written objections to  
4 said proposed water recreational area or to the granting of said  
5 permit.

1     Sec. 7. Filing. All such objections shall be on file in the  
2 office of said state conservation commission not less than five  
3 (5) days before the date of hearing on said application but said  
4 state conservation commission may permit the filing of said ob-  
5 jections later than five (5) days before said hearing in which  
6 event the applicant must be granted a reasonable time to meet  
7 said objections.

1     Sec. 8. Examination—testimony. The state conservation  
2 commission may examine the proposed water recreational area or  
3 may cause such examination to be made by an engineer or such other  
4 persons as it desires to be selected by it, who shall report the  
5 results of said examination to the commission. At said hearing  
6 the state conservation commission shall consider the petition  
7 and any objections filed thereto and may at its discretion hear  
8 such testimony as may aid it in determining the propriety of grant-  
9 ing such permit.

1     Sec. 9. Final order—condition. It may grant such permit  
2 in whole or in part upon such terms, conditions and restric-  
3 tions as to location as may be determined by it to be just and  
4 proper and in the public interest, provided that before any  
5 permit shall be granted to any such municipality, corporation or  
6 individual the commission shall, after public hearing as pro-  
7 vided hereby, determine whether the water recreational area  
8 will be in the interests of the public health and welfare and

9 an affirmative finding to such effect shall be a condition  
10 precedent to the granting of such permit.

1 Sec. 10. Costs and fees. Applicant shall pay all costs and  
2 expenses of the hearing and necessary preliminary investigation  
3 in connection therewith, including the cost of publishing notice  
4 of hearing.

1 Sec. 11. Permit. The state conservation commission shall  
2 cause to be prepared a uniform blank form of permit which shall  
3 provide a space for a general description of the area authorized  
4 to be included in any water recreational area to be established  
5 hereunder, the name and address of the municipality, corporation  
6 or individual to whom said permit is granted and the terms and  
7 conditions upon which it is granted. Said permit shall be signed  
8 by the chairman of the state conservation commission and the  
9 official seal of said commission shall be attached thereto.

1 Sec. 12. Sale of permit. No permit shall be sold until the  
2 sale is approved by the commission.

1 Sec. 13. Records. The state conservation commission shall  
2 keep a record of all permits granted and issued by it showing  
3 when and to whom issued and the location of the area of the  
4 proposed water recreational area covered thereby.

1 Sec. 14. Extension of permit. Any municipality, corporation  
2 or individual owning a permit granted hereby desiring to acquire  
3 an extension of said permit may petition the commission in the  
4 same manner provided for the granting of such permit and the  
5 same proceeding shall be had as on an original application.

1 Sec. 15. Eminent domain. Any municipality, corporation or  
2 individual having secured a permit for the establishment of a  
3 water recreational area as in this chapter provided, shall

4 thereupon be vested with the right of eminent domain to such  
 5 extent as may be necessary and as prescribed and approved by  
 6 said state conservation commission in order to appropriate for  
 7 its use for water recreational area purposes and facilities  
 8 normally associated therewith for the use of the public any  
 9 land which the commission shall have found to be suitable and  
 10 in the public interest for said purposes and in connection  
 11 therewith may appropriate such other interests in property as  
 12 may be required to establish, maintain and operate said water  
 13 recreational area and facilities normally associated therewith.

SENATE FILE 19

*Filed by Bunker Feb. 4 - 1963*  
*Adopted 2-19*

1 Amend Senate File 19 by inserting after the word "company,"  
 2 in line 1 of section 6 the following words "levee or drainage  
 3 district."

4 Further amend Senate File 19 by adding an additional section  
 5 as follows:

6 "Anything in chapter four hundred fifty-five (455) of the Code  
 7 to the contrary, county boards of supervisors and trustees having  
 8 control of any levee or drainage district established there-  
 9 under, including joint levee or drainage districts, may enter  
 10 into contracts and agreements with municipalities, individuals  
 11 or corporations authorized to establish water recreational areas  
 12 under the provisions of this Act. Such contracts or agreements  
 13 shall be in writing and may be made prior to or after the estab-  
 14 lishment of a water recreational area. If made prior to the  
 15 establishment of a water recreational area they may be made con-  
 16 ditional upon the final establishment of such area and if condi-  
 17 tional upon such final establishment may be entered into prior  
 18 to the hearing provided for in section four (4) of this Act.

19 Such contracts or agreements may embrace any of the follow-  
 20 ing subjects:

- 21 1. For the impoundment of drainage waters to create artifi-  
 22 cial lakes or ponds.
- 23 2. For compensation to drainage districts for drainage im-  
 24 provements destroyed or rendered useless by the establishment of  
 25 water recreational areas and the structures, water or works  
 26 thereof.
- 27 3. For the diversion of waters from established drainage  
 28 ditches or tile drains to other channels.
- 29 4. For sanitary measures and precautions.
- 30 5. For the control of water levels in lakes, ponds or im-  
 31 poundments of water to avoid damage to or malfunction of drain-  
 32 age facilities.
- 33 6. For the construction of additional drainage facilities  
 34 promoting the interests of either or both of the contracting  
 35 parties.
- 36 7. For the granting of easements or licenses by one party to  
 37 the other.
- 38 8. For the payment of money by one contracting party to the  
 39 other in consideration of acts or performance of the other party  
 40 required by such contract or agreement.

41 When any expenditure of levee or drainage district funds is  
 42 proposed by the authority contained in this section and where  
 43 the estimated expenditure will exceed fifty percent of the origi-  
 44 nal total cost of the district and subsequent improvements  
 45 therein as defined by section four hundred fifty-five point one  
 46 hundred thirty five (455.135) of the Code, the same procedure  
 47 respecting notice and hearing shall be followed as is provided  
 48 in said section four hundred fifty-five point one hundred thirty-  
 49 five (455.135) for repair proposals where the estimated cost of  
 50 the repair exceeds fifty percent of the original total cost of  
 51 the district and subsequent improvements therein."

*Adopted as amended 2/19/63*

Filed  
 February 4, 1963.

By BENER

SENATE FILE 19

- 1 Amend Senate File 19 as follows:
- 2 1. Amend section 3, by striking all of subsection 3 and
- 3 inserting in lieu thereof the following:
- 4 "Sec. 4. A copy of the petition and such applications,
- 5 plans, and specifications as are required under the provisions of
- 6 chapter four hundred fifty-five A (455A) of the Code shall be
- 7 filed with the Iowa natural resources council and any approval
- 8 or permit required thereunder shall be obtained prior to the
- 9 establishment of said water recreational area or the granting of
- 10 a permit therefor by the state conservation commission."
- 11 2. Further amend Senate File 19 by renumbering the remain-
- 12 ing sections.

Filed  
February 15, 1963.

By GETTING.

SENATE FILE 19

- 1 Amend Senate File 19, section 3, line 6, by inserting after
- 2 the word and comma "area," the following: "a showing that seventy-
- 3 five (75) percent of the area is either owned or under option for
- 4 purchase by the applicant."

Filed - *Adopted 2-19-63*  
February 18, 1963.

By LONG.

- 1 Amend the Beneke amendment filed February 4, 1963, to Senate
- 2 File 19, line 49, by inserting after "(455.135)" the following:
- 3 "of the Code".

Filed and adopted  
February 19, 1963.

By BENEKE.

- 1 Amend Senate File 19 as follows:
- 2 1. Section 11, lines 5 and 6, by striking "corporation or individu-
- 3 and inserting in lieu thereof the following: "or corporation".
- 4 2. Section 14, lines 1 and 2, by striking "corporation or individua-
- 5 and inserting in lieu thereof the following: "or corporation".
- 6 3. Section 15, lines 1 and 2, by striking "corporation or individual
- 7 and inserting in lieu thereof the following: "or corporation".

Filed and adopted  
February 19, 1963.

By Cowden.

- 1 Amend Senate File 19 as follows:
- 2 Amend section 11 by adding at the end thereof the following:
- 3 "Said permit shall further provide that not less than five
- 4 (5) per cent of the water frontage on said recreational
- 5 area shall be made and kept available for public access
- 6 and use."

Filed—pending  
February 19, 1963.

By NOLAN.

- 1 Amend the Nolan amendment filed February 19, 1963, lines
- 2 3 and 4, by striking the words "five (5) percent" and
- 3 inserting in lieu thereof the following: "twenty-five
- 4 percent (25%)".

Filed—pending  
February 19, 1963.

By TURNER.

- 1 Amend Senate File 19, section 15, as follows:
- 2 1. Strike from line 1 "corporation" and from line
- 3 2 the words "or individual".

Filed and lost  
February 19, 1963.

By HILL.

SENATE FILE 19

- 1 Amend the House amendment to Senate File 19 as follows:
- 2 1. Strike divisions 1, 3, 4, 5, 7, and 11.
- 3 2. Amend division 10, line 14, by adding the following after
- 4 "condemnation": "including all costs occasioned by appeal as
- 5 set out in section four hundred seventy-two point thirty-three
- 6 (472.33) of the Code, and".
- 7 3. Further amend division 10 by striking the words, "in the
- 8 public interest" in line 21 and by inserting in lieu thereof,
- 9 the following: "for free public access and use".

Filed  
May 6, 1963.

By DORAN.

*Div. 1  
appeal 19  
7/24  
Lost 5/19  
Div. 2  
appeal 3/1  
Div. 3  
appeal 1/1  
adopted 5/19*

*Div. 3  
appeal 18  
made adopted 5/19  
House  
concerned 5/10*

1 Amend Senate File 19 as follows:

2 1. Section 10, line three (3), by striking the words "as to  
3 location".

4 2. Section 12, by striking the last sentence.

5 3. By inserting the following new section after section 12:

6 "Sec. 13. Public access and use. Any lake in the water  
7 recreational area, together with at least twenty-five (25) percent  
8 of the water frontage of the water recreational area and all land  
9 which adjoins and lies within one hundred (100) yards from any  
10 point of such twenty-five (25) percent of the water frontage,  
11 shall be permanently subject to and available for public access  
12 and use. The municipality or corporation shall grant to the  
13 State of Iowa a perpetual easement for such public access and  
14 use, and such easement shall not be impaired or destroyed in whole  
15 or in part by nonuse. Before a permit is granted as provided in  
16 section 12 of this Act, the state conservation commission and  
17 the municipality or corporation shall agree on the location and  
18 description of such water frontage and land to be permanently  
19 subject to and available for public access and use, and such  
20 location and description shall be stated in the permit. However,  
21 in lieu of the foregoing procedure, the state conservation  
22 commission and the municipality or corporation may agree that the  
23 state conservation commission may select such water frontage and  
24 land after the permit is granted, and the permit shall so state.  
25 At any time the state conservation commission, with the written  
26 consent of the municipality or corporation, may designate any  
27 additional land within the water recreational area to be per-  
28 manently subject to and available for public access and use; and  
29 the municipality or corporation shall grant to the State of Iowa  
30 a perpetual easement for such public access and use, which ease-  
31 ment shall not be impaired or destroyed in whole or in part by  
32 nonuse. Such lake, water frontage and land shall be under the  
33 jurisdiction of the state conservation commission for all purposes,  
34 and shall be subject to all applicable provisions of chapters one  
35 hundred six (106), one hundred seven (107) and one hundred eleven  
36 (111) of the Code. However, the state conservation commission  
37 may enter into agreements from time to time with one or more  
38 municipalities or corporations for the management, development,  
39 improvement, care and maintenance of such lake, water frontage  
40 and land."

*Adopted 4/25  
7/30*

41 4. By striking section 16 and inserting in lieu thereof the  
42 following:

43 "Sec. 16. Whenever a permit has been granted as provided in  
44 section 12 of this Act and the state conservation commission  
45 finds that the municipality or corporation owning such permit  
46 cannot acquire at a reasonable cost any necessary land or interest  
47 therein, the state conservation commission may condemn such la-  
48 or interest therein as provided in chapter four hundred seventy-  
49 two (472) of the Code. However, such condemnation shall be  
50 limited to land and interests therein and will be permanently  
51 subject to and available for public access and use, as provided  
52 in section 13 of this Act, or which will be required for a dam  
53 or other facilities necessary for the water recreational area.  
54 All costs of such condemnation, including the award and compensa-  
55 tion for such land or interest therein, shall be paid by such  
56 municipality or corporation. The state conservation commission  
57 may permit such municipality or corporation to use such land or  
58 interest therein for the purposes of this Act, upon such terms,  
59 conditions and restrictions as the state conservation commission  
60 shall determine to be just and proper and in the public interest.  
61 Title to such land or interest therein shall remain in the State  
62 of Iowa."

63 5. By adding the following new section after section 17:

64 "Except as otherwise provided herein, no municipality,  
65 corporation, firm or person shall establish a water recreational  
66 area of the kind contemplated by this Act except in accordance  
67 with this Act. However, this Act shall not apply to a body of  
68 water wholly on the lands of a single owner or a group of joint  
69 owners, which does not have any connection with any public waters  
70 and which includes less than ten surface acres. This Act shall  
71 not apply to a water recreational area established by a  
72 municipality entirely within its boundaries or to a water  
73 recreational area established by one or more county conservation  
74 boards. This Act shall not be deemed to require a permit for  
75 any water recreational area existing on the effective date of  
76 this Act."

77 6. By renumbering the sections and correcting all cross  
78 references to conform with these amendments.

Filed  
April 25, 1963.

*Adopted  
7/30/63*

STANLEY of Muscatine.  
KREAGER of Jasper.  
ROBINSON of Guthrie.  
KLUEVER of Cass.  
McELROY of Fremont.

- 1 Amend Senate File 19 as follows:
- 2 1. Section 1, lines one (1) and two (2), by striking the
- 3 following: ", or individuals"; also line five (5) by striking
- 4 the comma at the end thereof and inserting the word "or"; and
- 5 in line six (6) by striking the words "or individuals".
- 6 2. Section 2, line one (1), by striking the comma after the
- 7 word "municipality" and inserting the word "or"; and by striking
- 8 in line two (2) the words "or individual".
- 9 3. Section 3, line two (2), by striking all of said line
- 10 after the word "municipality" and inserting in lieu thereof
- 11 the words "or corporation".
- 12 4. Section 10, line five (5) by striking all of said line
- 13 after the word "municipality" and inserting in lieu thereof the
- 14 words "or corporation"; and by striking in line six (6) the
- 15 word "individual".
- 16 5. Section 17, line five (5), by striking the following
- 17 word ", individuals".

Filed  
February 26, 1963.

*adopted*  
4/26

ROBINSON of Guthrie.

SENATE FILE 19

- 1 Amend the Stanley, et al., amendment to Senate File 19
- 2 by striking lines sixty-four (64) through seventy-six (76)
- 3 and inserting in lieu thereof the following:
- 4 "This Act shall not be the exclusive method for
- 5 establishing a water recreational area."

Filed  
April 26, 1963.

*adopted*  
4/30

STANLEY of Muscatine.  
KREAGER of Jasper.

SENATE FILE 19

- 1 Amend Senate File 19 as follows:
- 2 1. By inserting in section 1, line 3, after the word "other"
- 3 the words "in counties not having a county conservation board".
- 4 2. By adding to Senate File 19, the following sections:
- 5 "Sec. 18. In order to reduce the possibility of affecting
- 6 conservation measures to flood control projects which may be
- 7 in progress in other states, water recreational areas shall not
- 8 be established hereunder within seventy (70) miles of the border
- 9 of any other state."
- 10 "Sec. 19. The sections and provisions of this law are hereby
- 11 declared to be severable and if any section or provision hereof
- 12 is declared by a court of competent jurisdiction to be invalid
- 13 the other provisions and sections of this law shall not be af-
- 14 fected thereby and shall continue in force."

✓ Filed and adopted  
April 30, 1963.

VAN NOSTRAND of Pottawattamie.

SENATE FILE 19

- 1 Amend the Stanley et al., amendment to Senate File 19 by
- 2 striking all after the period in line 32 and through
- 3 the period in line 36.

✓ Filed and adopted  
April 30, 1963.

ANDERSON of Ringgold.

SENATE FILE 19

- 1 Amend the Stanley, et al., amendment to Senate File 19, filed
- 2 April 25, 1963, by inserting in line forty-seven (47) after the
- 3 word "commission" the words ", with the approval of the execu-
- 4 tive council,".

✓ Filed and adopted  
April 30, 1963.

STANLEY of Muscatine.

SENATE FILE 19

- 1 Amend the Stanley, et al., amendment to Senate File 19, filed
- 2 April 25, 1963, by inserting the word "free" after the word "for"
- 3 in each of the following lines: eleven (11), nineteen (19),
- 4 twenty-eight (28) and fifty-one (51).

✓ Filed and adopted  
April 30, 1963.

CAMP of Clinton.